

House Bill 127

By: Representatives Powell of the 171<sup>st</sup>, Meadows of the 5<sup>th</sup>, England of the 116<sup>th</sup>, Hamilton of the 24<sup>th</sup>, Nix of the 69<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Titles 45, 12, and 15 of the Official Code of Georgia Annotated, relating to public  
2 officers and employees, conservation and natural resources, and courts, respectively, so as  
3 to provide for automatic fee adjustments in cases where funds are not appropriated in certain  
4 amounts for specified purposes when certain fees are imposed for such purposes; to provide  
5 for definitions, procedures, conditions, and limitations; to provide for corresponding changes;  
6 to provide an effective date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,  
10 is amended by adding a new Code section to read as follows:

11 "45-12-92.2.

12 (a) As used in this Code section, the term:

13 (1) 'Base amount' means the amount of fee proceeds collected during the complete fiscal  
14 year which immediately precedes the fiscal year for which the current appropriation  
15 amount is determined with respect to an individual fee which proceeds are required to be  
16 remitted for:

17 (A) Deposit in the general fund of the state for purposes specified by general law;

18 (B) Use for a specified purpose;

19 (C) Deposit into a trust fund created by general law; or

20 (D) Deposit in a trust fund provided for under the Constitution or use for a specified  
21 purpose provided for under the Constitution when such proceeds are not directly  
22 earmarked by the Constitution or when the General Assembly is authorized by the  
23 Constitution, but not required, to appropriate funds for such specified purpose.

24 When a fee amount has been reduced pursuant to any provision of this Code section,  
25 then, for purposes of calculating amounts as required under this Code section for the next  
26 fiscal year, the term shall mean the amount of fee proceeds that would have been

27 collected during a specified fiscal year under the original amount of the fee unreduced by  
 28 this Code section.

29 (2) 'Collecting agency' means:

30 (A) For the fees identified in subparagraphs (A) and (B) of paragraph (4) of this  
 31 subsection, the state department, state agency, public officer, public official, or public  
 32 entity which collects or receives proceeds of the fee; and

33 (B) For the fees identified in subparagraphs (C) through (J) of paragraph (4) of this  
 34 subsection, the Georgia Superior Court Clerks' Cooperative Authority.

35 (3) 'Current appropriation amount' means the total amount of funds which are  
 36 appropriated for a purpose or function described under paragraph (4) of this subsection  
 37 during the fiscal year which immediately precedes the fiscal year for which the new  
 38 appropriation amount is determined for which the calculations are required under  
 39 subsection (b) of this Code section.

40 (4) 'Fee' means the:

41 (A) Solid waste disposal surcharge fee provided for under subsection (e) of Code  
 42 Section 12-8-39 for the hazardous waste trust fund;

43 (B) Tire disposal fee provided for under subsection (h) of Code Section 12-8-40.1 for  
 44 the solid waste trust fund;

45 (C) Additional penalty sum provided for under subparagraph (a)(1)(A) of Code Section  
 46 15-21-73 for peace officer and prosecutor training;

47 (D) Additional penalty sum provided for under subparagraph (a)(1)(B) of Code Section  
 48 15-21-73 for indigent criminal defense;

49 (E) Additional penalty sum provided for under subparagraph (a)(2)(A) of Code Section  
 50 15-21-73 for peace officer and prosecutor training;

51 (F) Additional penalty sum provided for under subparagraph (a)(2)(B) of Code Section  
 52 15-21-73 for indigent criminal defense;

53 (G) Additional penalty sum provided for under subsection (a) of Code Section  
 54 15-21-179 for the driver education and training fund;

55 (H) Additional filing fee provided for under subsection (a) of Code Section 15-21A-6  
 56 for indigent criminal defense;

57 (I) Additional filing fee provided for under subsection (b) of Code Section 15-21A-6  
 58 for indigent criminal defense; and

59 (J) Additional application fee provided for under subsection (c) of Code Section  
 60 15-21A-6 for indigent criminal defense.

61 (5) 'New appropriation amount' means the total amount of funds which are appropriated  
 62 for a purpose or function described under paragraph (4) of this subsection for the newly

63 commencing fiscal year for which the calculations are required under subsection (b) of  
64 this Code section.

65 (b) Unless otherwise prohibited pursuant to subsection (f) of this Code section, effective  
66 for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, for each  
67 subparagraph of paragraph (4) of subsection (a) of this Code section:

68 (1) The Office of Planning and Budget shall determine the base amount for the particular  
69 purpose or function;

70 (2) The Office of Planning and Budget shall determine the current appropriation amount  
71 and the new appropriation amount;

72 (3) The Office of Planning and Budget shall determine an amount equal to 25 percent of  
73 the base amount and shall add the amount so determined to the current appropriation  
74 amount. This sum shall be the target appropriation amount;

75 (4) If the new appropriation amount is equal to or greater than 95 percent of the base  
76 amount or is equal to or greater than the target appropriation amount, then the amount of  
77 the fee shall not be reduced under this Code section;

78 (5)(A) If the new appropriation amount is less than the target appropriation amount,  
79 then the amount of the fee shall be reduced automatically by operation of this Code  
80 section by 25 percent for the fiscal year beginning on July 1; provided, however, that  
81 in no event shall the reduction ever be less than an amount which would be equal to the  
82 new appropriation amount.

83 (B) Except for the fees specified under subparagraphs (a)(4)(A) and (a)(4)(B) of this  
84 Code section, any fee amount adjusted pursuant to this paragraph shall be rounded to  
85 the nearest whole dollar amount.

86 (C) Immediately following the date the General Appropriations Act for the newly  
87 commencing fiscal year is approved by the Governor or becomes law without such  
88 approval, the Office of Planning and Budget shall notify the appropriate collecting  
89 agency of the adjusted fee amount; and

90 (6)(A) Except as otherwise provided in subparagraph (B) of this paragraph, for any  
91 fiscal year following a fee reduction under paragraph (5) of this subsection, if the new  
92 appropriation amount is equal to or greater than the target appropriation amount, then  
93 the fee amount shall, by operation of this Code section, be increased back to the fee  
94 amount in place immediately prior to the most recent such reduction.

95 (B) If the new appropriation amount is equal to or greater than the target appropriation  
96 amount as determined in the fiscal year in which such fee amount was first reduced  
97 under this subsection, then such fee amount shall, by operation of this subparagraph,  
98 be increased back to the amount in place immediately prior to such first reduction.

99 (c) For purposes of the calculations required under this Code section, each time that a 25  
100 percent amount has been added to a prior appropriation amount under paragraph (3) of  
101 subsection (b) of this Code section, that amount shall remain cumulative and shall remain  
102 as a part of the target appropriation amount for purposes of the calculations required under  
103 subsection (b) of this Code section for the next fiscal year.

104 (d)(1) Except as otherwise provided in paragraph (2) or (3) of this subsection,  
105 calculations under subsection (b) of this Code section shall continue in effect for a fee for  
106 each fiscal year until the new appropriation amount is equal to or greater than 95 percent  
107 of the target appropriation amount.

108 (2) If, in any subsequent fiscal year, the new appropriation amount is less than 95 percent  
109 of the base amount, then there shall be a commensurate fee reduction applicable to that  
110 fee amount effective the first day of the subsequent fiscal year in such amount as may be  
111 necessary to offset the difference between the new appropriation amount and the base  
112 amount in such fiscal year.

113 (3) In the event the 25 percent addition required under paragraph (3) of subsection (b)  
114 of this Code section results in the target appropriation amount equaling or exceeding 95  
115 percent of the base amount, then there shall be no reduction in the fee amount under this  
116 Code section for the applicable fiscal year.

117 (e) In the event a portion of the proceeds of a particular fee are directed by general law to  
118 be remitted by a collecting agency directly to a local governing authority, the reduction in  
119 such fee amount, if required by this Code section, shall apply proportionately only to that  
120 portion of the fee amount that is not required to be so remitted to such local governing  
121 authority.

122 (f)(1) During any session of the General Assembly, prior to the adoption of the  
123 supplementary appropriations bill amending the current fiscal year budget or prior to the  
124 adoption of the general appropriations bill providing for the succeeding fiscal year's  
125 budget, the General Assembly shall be authorized to waive and suspend the operation of  
126 this Code section with respect to any fee or fees identified under paragraph (4) of  
127 subsection (a) of this Code section in the manner specified in paragraph (2) of this  
128 subsection.

129 (2) Each such waiver and suspension shall be accomplished by a joint resolution, enacted  
130 with the force and effect of law, the duration of which shall not exceed a single fiscal year  
131 and which shall apply only to a single fee identified under paragraph (4) of subsection (b)  
132 of this Code section.

133 (g) No provision of this Code section providing for the determination of any amount shall  
134 preclude the appropriation of greater amounts for purposes or functions covered by this  
135 Code section.

136 (h) Each collecting agency covered by this Code section and the Office of Planning and  
 137 Budget shall promulgate such rules and regulations as are necessary and appropriate to  
 138 implement and administer this Code section, including, but not limited to, appropriate  
 139 public notification of any change in a fee amount and the effective date of such change  
 140 required by any provision of this Code section."

141 **SECTION 2.**

142 Title 12 of the Official Code of Georgia Annotated, relating to conservation and natural  
 143 resources, is amended by revising subsection (e) of Code Section 12-8-39, relating to solid  
 144 waste disposal cost reimbursement fees and surcharges, as follows:

145 "(e)(1) Owners or operators of any solid waste disposal facility other than an inert waste  
 146 landfill as defined in regulations promulgated by the board or a private industry solid  
 147 waste disposal facility shall assess and collect on behalf of the division from each  
 148 disposer of waste a surcharge of 75¢ per ton of solid waste disposed. Two percent of said  
 149 surcharges collected may be retained by the owner or operator of any solid waste disposal  
 150 facility collecting said surcharge to pay for costs associated with collecting said  
 151 surcharge. Surcharges assessed and collected on behalf of the division shall be paid to  
 152 the division not later than the first day of July of each year for the preceding calendar  
 153 year. Any facility permitted exclusively for the disposal of construction or demolition  
 154 waste that conducts recycling activities for construction or demolition materials shall  
 155 receive a credit towards such surcharges of 75¢ per ton of material recycled at the facility.  
 156 (2) The surcharge amount provided for in this subsection shall be subject to revision  
 157 pursuant to Code Section 45-12-92.2."

158 **SECTION 3.**

159 Said title is further amended by adding a new paragraph to subsection (h) of Code Section  
 160 12-8-40.1, relating to tire disposal restrictions and fees, to read as follows:

161 "(4) The fee amount provided for in this subsection shall be subject to revision pursuant  
 162 to Code Section 45-12-92.2."

163 **SECTION 4.**

164 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by adding  
 165 a new paragraph to subsection (a) of Code Section 15-21-73, relating to penalties to be  
 166 imposed in certain criminal and quasi-criminal and traffic cases and upon violation of bond,  
 167 to read as follows:

168 "(3) Each of the fee amounts provided for in subparagraph (A) of paragraph (1) and  
169 subparagraph (A) of paragraph (2) of this subsection shall be subject to revision pursuant  
170 to Code Section 45-12-92.2."

171 **SECTION 5.**

172 Said title is further amended by revising subsection (a) of Code Section 15-21-179, relating  
173 to additional penalties for violation of traffic laws or ordinances, as follows:

174 "(a)(1) In every case in which any court in this state shall impose a fine or bond payment,  
175 which shall be construed to include costs, for any violation of the traffic laws of this state  
176 or for violations of ordinances of political subdivisions which have adopted by reference  
177 the traffic laws of this state, there shall be imposed as an additional penalty a sum equal  
178 to 5 percent of the original fine.

179 (2) The fee amount provided for in this subsection shall be subject to revision pursuant  
180 to Code Section 45-12-92.2."

181 **SECTION 6.**

182 Said title is further amended by adding a new subsection to Code Section 15-21A-6, relating  
183 to additional filing fees in certain courts, to read as follows:

184 "(g) Each of the fee amounts provided for in subsections (a), (b), and (c) of this Code  
185 section shall be subject to revision pursuant to Code Section 45-12-92.2."

186 **SECTION 7.**

187 This Act shall become effective upon its approval by the Governor or upon its becoming law  
188 without such approval.

189 **SECTION 8.**

190 All laws and parts of laws in conflict with this Act are repealed.