

House Bill 276 (AS PASSED HOUSE AND SENATE)

By: Representatives Nimmer of the 178<sup>th</sup>, Hatchett of the 150<sup>th</sup>, Coomer of the 14<sup>th</sup>, Smith of the 70<sup>th</sup>, and Nix of the 69<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 8 of Title 12 and Part 1 of Article 4 of Chapter 12 of Title 45 of the  
2 Official Code of Georgia Annotated, relating to waste management and management of  
3 budgetary and financial affairs, respectively, so as to change certain procedures regarding  
4 appropriations to the Department of Natural Resources and the Georgia Hazardous Waste  
5 Management Authority; to extend the sunset dates for certain fees and surcharges; to provide  
6 for automatic fee adjustments in cases where funds are not appropriated in certain amounts  
7 for specified purposes when certain fees are imposed for such purposes; to provide for  
8 definitions, procedures, conditions, and limitations; to provide for corresponding changes;  
9 to provide for an effective date; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Chapter 8 of Title 12 of the Official Code of Georgia Annotated, relating to waste  
13 management, is amended by revising subsections (e) and (g) of Code Section 12-8-39,  
14 relating to solid waste disposal cost reimbursement fees and surcharges, as follows:

15 "(e)(1) Owners or operators of any solid waste disposal facility other than an inert waste  
16 landfill as defined in regulations promulgated by the board or a private industry solid  
17 waste disposal facility shall assess and collect on behalf of the division from each  
18 disposer of waste a surcharge of 75¢ per ton of solid waste disposed. Two percent of said  
19 surcharges collected may be retained by the owner or operator of any solid waste disposal  
20 facility collecting said surcharge to pay for costs associated with collecting said  
21 surcharge. Surcharges assessed and collected on behalf of the division shall be paid to  
22 the division not later than the first day of July of each year for the preceding calendar  
23 year. Any facility permitted exclusively for the disposal of construction or demolition  
24 waste that conducts recycling activities for construction or demolition materials shall  
25 receive a credit towards such surcharges of 75¢ per ton of material recycled at the facility.

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

28 "(g) Unless the requirement for the surcharge required by subsection (e) of this Code  
 29 section is reimposed by the General Assembly, no such surcharge shall be collected after  
 30 July 1, ~~2013~~ 2018."

31 **SECTION 2.**

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

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

36 **SECTION 3.**

37 Said chapter is further amended by revising subsection (b) of Code Section 12-8-95, relating  
 38 to the hazardous waste trust fund, as follows:

39 "(b) The moneys deposited in the hazardous waste trust fund may be expended by the  
 40 director as follows:

41 (1) For activities associated with the investigation, detoxification, removal, and disposal  
 42 of any hazardous wastes, hazardous constituents, or hazardous substances at sites where  
 43 corrective action is necessary to mitigate a present or future danger to human health or  
 44 the environment;

45 (2) For emergency actions the director considers necessary to protect public health,  
 46 safety, or the environment whenever there is a release of hazardous wastes, hazardous  
 47 constituents, or hazardous substances;

48 (3) For activities of the division associated with the administration of this part, including  
 49 reviewing and overseeing investigations, corrective action, and other actions by federal  
 50 agencies required under this article and supporting the reduction of hazardous waste and  
 51 pollution prevention activities by federal agencies;

52 (4) In accordance with rules promulgated by the board, for financing of the state and  
 53 local share of the costs associated with the investigation, remediation, and postclosure  
 54 care and maintenance of sites placed on the National Priority List pursuant to the federal  
 55 Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as  
 56 amended, or sites placed on the hazardous site inventory pursuant to Code Section  
 57 12-8-97; provided, however, that the director shall ensure that beginning July 1, 2003,  
 58 and annually in each following year, an amount equal to at least one-half of the sum of  
 59 annual collections made pursuant to subsection (e) of Code Section 12-8-39 and  
 60 appropriated to the department in accordance with subsection (b) of Code Section

61 12-8-91 shall be available to be used for the purposes of this paragraph; provided, further,  
 62 that if a county or municipal corporation has been or is the owner of or operator of such  
 63 site, not less than \$500,000 of such costs shall be paid from the hazardous waste trust  
 64 fund; and

65 (5) For activities administered by the director associated with pollution prevention,  
 66 including reduction of hazardous wastes generated in ~~the~~ this state; ~~and.~~

67 ~~(6) Provided that annual appropriations are made to the Department of Natural Resources~~  
 68 ~~in accordance with subsection (b) of Code Section 12-8-91, for transfer on an annual~~  
 69 ~~basis to the Georgia Hazardous Waste Management Authority in an amount equal to 10~~  
 70 ~~percent of the previous year's payment into the state treasury by the division of fees and~~  
 71 ~~penalties pursuant to subsection (e) of Code Section 12-2-2, subsection (e) of Code~~  
 72 ~~Section 12-8-39, and Code Section 12-8-95.1. If in any year the fees cease to be collected~~  
 73 ~~due to the unencumbered principal balance exceeding \$25 million in the hazardous waste~~  
 74 ~~trust fund, a transfer of funds shall be made to the Georgia Hazardous Waste~~  
 75 ~~Management Authority from the principal of the hazardous waste trust fund equal to the~~  
 76 ~~average transfer for the three preceding years. Such transferred funds are to be~~  
 77 ~~administered by the chief administrative officer of the Georgia Hazardous Waste~~  
 78 ~~Management Authority to fund source reduction and project activities as set forth in~~  
 79 ~~Article 4 of this chapter and in accordance with the policies of the board."~~

80 **SECTION 4.**

81 Said chapter is further amended by revising subsection (h) of Code Section 12-8-95.1,  
 82 relating to hazardous waste management fees and hazardous substance reporting fees, as  
 83 follows:

84 "(h) Unless fee requirements established in this Code section are reimposed by the General  
 85 Assembly, no such fees shall be levied after July 1, ~~2013~~ 2018."

86 **SECTION 5.**

87 Part 1 of Article 4 of Chapter 12 of Title 45 of the Official Code of Georgia Annotated,  
 88 relating to management of budgetary and financial affairs, is amended by adding a new Code  
 89 section to read as follows:

90 "45-12-92.2.

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

92 (1) 'Base amount' means the amount of fee proceeds collected during the complete fiscal  
 93 year which immediately precedes the fiscal year for which the new appropriation amount  
 94 is determined with respect to each fee under paragraph (3) of this subsection. When a fee  
 95 amount has been reduced pursuant to any provision of this Code section, then for

96 purposes of calculating amounts as required under this Code section for the next fiscal  
97 year, base amount shall mean the amount of fee proceeds that would have been collected  
98 during a specified fiscal year under the original amount of the fee unreduced by this Code  
99 section.

100 (2) 'Collecting agency' means the Environmental Protection Division of the Department  
101 of Natural Resources.

102 (3) 'Fee' means the:

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

105 (B) Tire disposal fee provided for under subsection (h) of Code Section 12-8-40.1 for  
106 the solid waste trust fund.

107 (4) 'New appropriation amount' means the total amount of funds which are appropriated  
108 for a purpose or function described under paragraph (3) of this subsection for the newly  
109 commencing fiscal year for which the calculations are required under subsection (b) of  
110 this Code section.

111 (b) Effective for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, for  
112 paragraph (3) of subsection (a) of this Code section:

113 (1) The Office of Planning and Budget shall determine the base amount for the purpose  
114 or function as described under a subparagraph of paragraph (3) of subsection (a) of this  
115 Code section;

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

117 (3) If the new appropriation amount is equal to or greater than the base amount, then the  
118 amount of the fee shall not be reduced under this Code section;

119 (4)(A) If the new appropriation amount is less than the base amount, then the amount  
120 of the fee shall be reduced automatically by 25 percent for the fiscal year beginning on  
121 July 1; provided, however, that in no event shall the reduction ever be less than an  
122 amount which would be equal to the new appropriation amount;

123 (B) Immediately following the date the General Appropriations Act for the newly  
124 commencing fiscal year is approved by the Governor or becomes law without such  
125 approval, the Office of Planning and Budget shall notify the collecting agency of the  
126 adjusted fee amount; and

127 (5)(A) Except as otherwise provided in subparagraph (B) of this paragraph, for any  
128 fiscal year following a fee reduction under paragraph (4) of this subsection, if the new  
129 appropriation amount is equal to or greater than the base amount, then the fee amount  
130 shall be increased back to the fee amount in place immediately prior to the most recent  
131 such reduction.

132 (B) If the new appropriation amount is equal to or greater than the base amount as  
 133 determined in the fiscal year in which such fee amount was first reduced under this  
 134 subsection, then such fee amount shall be increased back to the amount in place  
 135 immediately prior to such first reduction.

136 (c)(1) Except as otherwise provided in paragraph (2) of this subsection, calculations  
 137 under subsection (b) of this Code section shall continue in effect for a fee for each fiscal  
 138 year until the new appropriation amount is equal to or greater than the base amount.

139 (2) If, in any subsequent fiscal year, the new appropriation amount is less than the base  
 140 amount, then there shall be a commensurate fee reduction applicable to that fee amount  
 141 effective the first day of the subsequent fiscal year in such amount as may be necessary  
 142 to offset the difference between the new appropriation amount and the base amount in  
 143 such fiscal year.

144 (d)(1) During any session of the General Assembly, prior to the adoption of the  
 145 Supplemental Appropriations Act amending the current fiscal year budget or prior to the  
 146 adoption of the General Appropriations Act providing for the succeeding fiscal year's  
 147 budget, the General Assembly shall be authorized to waive and suspend the operation of  
 148 this Code section with respect to each fee identified under paragraph (3) of subsection (a)  
 149 of this Code section in the manner specified in paragraph (2) of this subsection.

150 (2) Each such waiver and suspension shall be accomplished by a joint resolution, enacted  
 151 with the force and effect of law, the duration of which shall not exceed a single fiscal year  
 152 and which shall apply only to a single fee identified under paragraph (3) of subsection (a)  
 153 of this Code section.

154 (e) No provision of this Code section providing for the determination of any amount shall  
 155 preclude the appropriation of greater amounts for purposes or functions covered by this  
 156 Code section.

157 (f) The collecting agency and the Office of Planning and Budget shall promulgate such  
 158 rules and regulations as are necessary and appropriate to implement and administer this  
 159 Code section, including, but not limited to, appropriate public notification of any change  
 160 in a fee amount and the effective date of such change required by any provision of this  
 161 Code section."

162 **SECTION 6.**

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

165 **SECTION 7.**

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