

A bill for an act

relating to environment finance; requiring the Pollution Control Agency to recover costs for permits and certifications; requiring a project proposer to pay for costs of preparing environmental assessment worksheet; amending Minnesota Statutes 2008, sections 115.77, subdivision 1; 116.07, subdivision 4d; 116.41, subdivision 2; 116C.834, subdivision 1; 116D.045.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 115.77, subdivision 1, is amended to read:

Subdivision 1. **Fees established.** The following fees are established for the purposes indicated:

(1) application for examination, ~~\$32~~ \$.....;

(2) issuance of certificate, ~~\$23~~ \$.....;

(3) reexamination resulting from failure to pass an examination, ~~\$32~~ \$.....;

(4) renewal of certificate, ~~\$23~~ \$.....;

(5) replacement certificate, ~~\$10~~ \$.....; and

(6) reinstatement or reciprocity certificate, ~~\$40~~ \$.....

Sec. 2. Minnesota Statutes 2008, section 116.07, subdivision 4d, is amended to read:

Subd. 4d. **Permit fees.** (a) The agency ~~may~~ shall collect permit fees in amounts ~~not greater than those necessary,~~ but no greater than the amount necessary to cover the reasonable costs of developing, reviewing, and acting upon applications for agency permits and implementing and enforcing the conditions of the permits pursuant to agency rules. Permit fees shall not include the costs of litigation. The fee schedule must reflect reasonable and routine direct and indirect costs associated with permitting, implementation, and enforcement. The agency may impose an additional enforcement

fee to be collected for a period of up to two years to cover the reasonable costs of implementing and enforcing the conditions of a permit under the rules of the agency. Any money collected under this paragraph shall be deposited in the appropriate account in the environmental fund.

(b) Notwithstanding paragraph (a), the agency shall collect an annual fee from the owner or operator of all stationary sources, emission facilities, emissions units, air contaminant treatment facilities, treatment facilities, potential air contaminant storage facilities, or storage facilities subject to the requirement to obtain a permit under subchapter V of the federal Clean Air Act, United States Code, title 42, section 7401 et seq., or section 116.081. The annual fee shall be used to pay for all direct and indirect reasonable costs, including attorney general costs, required to develop and administer the permit program requirements of subchapter V of the federal Clean Air Act, United States Code, title 42, section 7401 et seq., and sections of this chapter and the rules adopted under this chapter related to air contamination and noise. Those costs include the reasonable costs of reviewing and acting upon an application for a permit; implementing and enforcing statutes, rules, and the terms and conditions of a permit; emissions, ambient, and deposition monitoring; preparing generally applicable regulations; responding to federal guidance; modeling, analyses, and demonstrations; preparing inventories and tracking emissions; and providing information to the public about these activities.

(c) The agency shall set fees that:

(1) will result in the collection, in the aggregate, from the sources listed in paragraph (b), of an amount not less than \$25 per ton of each volatile organic compound; pollutant regulated under United States Code, title 42, section 7411 or 7412 (section 111 or 112 of the federal Clean Air Act); and each pollutant, except carbon monoxide, for which a national primary ambient air quality standard has been promulgated;

(2) may result in the collection, in the aggregate, from the sources listed in paragraph (b), of an amount not less than \$25 per ton of each pollutant not listed in clause (1) that is regulated under this chapter or air quality rules adopted under this chapter; and

(3) shall collect, in the aggregate, from the sources listed in paragraph (b), the amount needed to match grant funds received by the state under United States Code, title 42, section 7405 (section 105 of the federal Clean Air Act).

The agency must not include in the calculation of the aggregate amount to be collected under clauses (1) and (2) any amount in excess of 4,000 tons per year of each air pollutant from a source. The increase in air permit fees to match federal grant funds shall be a surcharge on existing fees. The commissioner may not collect the surcharge after the grant

funds become unavailable. In addition, the commissioner shall use nonfee funds to the extent practical to match the grant funds so that the fee surcharge is minimized.

(d) To cover the reasonable costs described in paragraph (b), the agency shall provide in the rules promulgated under paragraph (c) for an increase in the fee collected in each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of the year the fee is collected exceeds the Consumer Price Index for the calendar year 1989. For purposes of this paragraph the Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year. The revision of the Consumer Price Index that is most consistent with the Consumer Price Index for calendar year 1989 shall be used.

(e) Any money collected under paragraphs (b) to (d) must be deposited in the environmental fund and must be used solely for the activities listed in paragraph (b).

(f) Persons who wish to construct or expand a facility may offer to reimburse the agency for the costs of staff overtime or consultant services needed to expedite permit review. The reimbursement shall be in addition to fees imposed by law. When the agency determines that it needs additional resources to review the permit application in an expedited manner, and that expediting the review would not disrupt permitting program priorities, the agency may accept the reimbursement. Reimbursements accepted by the agency are appropriated to the agency for the purpose of reviewing the permit application. Reimbursement by a permit applicant shall precede and not be contingent upon issuance of a permit and shall not affect the agency's decision on whether to issue or deny a permit, what conditions are included in a permit, or the application of state and federal statutes and rules governing permit determinations.

~~(g) The fees under this subdivision are exempt from section 16A.1285.~~

Sec. 3. Minnesota Statutes 2008, section 116.41, subdivision 2, is amended to read:

Subd. 2. **Training and certification programs.** The agency shall develop standards of competence for persons operating and inspecting various classes of disposal facilities. The agency shall conduct training programs for persons operating facilities for the disposal of waste and for inspectors of such facilities, and ~~may~~ shall charge such fees as are necessary to cover the actual costs of the training programs. All fees received shall be paid into the state treasury and credited to the Pollution Control Agency training account and are appropriated to the agency to pay expenses relating to the training of disposal facility personnel.

The agency shall require operators and inspectors of such facilities to obtain from the agency a certificate of competence. The agency shall conduct examinations to test the competence of applicants for certification, and shall require that certificates be renewed at reasonable intervals. The agency may charge such fees as are necessary to cover the actual costs of receiving and processing applications, conducting examinations, and issuing and renewing certificates. Certificates shall not be required for a private individual for land-spreading and associated interim and temporary storage of sewage sludge on property owned or farmed by that individual.

Sec. 4. Minnesota Statutes 2008, section 116C.834, subdivision 1, is amended to read:

Subdivision 1. **Costs.** All costs incurred by the state to carry out its responsibilities under the compact and under sections 116C.833 to 116C.843 shall be paid by generators of low-level radioactive waste in this state through fees assessed by the Pollution Control Agency. Fees may be reasonably assessed on the basis of volume or degree of hazard of the waste produced by a generator. Costs for which fees may be assessed include, but are not limited to:

- (1) the state contribution required to join the compact;
- (2) the expenses of the commission member and state agency costs incurred to support the work of the Interstate Commission; and
- (3) regulatory costs.

~~The fees are exempt from section 16A.1285.~~

Sec. 5. Minnesota Statutes 2008, section 116D.045, is amended to read:

116D.045 ENVIRONMENTAL IMPACT STATEMENTS; REVIEW COSTS.

Subdivision 1. **Assessment.** (a) The board shall by rule adopt procedures to assess the proposer of a specific action for reasonable costs of preparing and distributing an environmental impact statement on that action required pursuant to section 116D.04. ~~Such~~ The costs shall be determined by the responsible governmental unit pursuant to the rules promulgated by the board.

(b) A responsible government unit shall assess the proposer of a specific action for the reasonable costs of preparing and distributing an environmental assessment worksheet on that action required under section 116D.04 in the amount equal to the amount that would be assessed for an environmental impact statement under Minnesota Rules, parts 4410.6100 and 4410.6200, except that a local unit of government is exempt from paying the equivalent of the first ten hours of the assessed reasonable costs of preparing and distributing the environmental assessment worksheet.

5.1 Subd. 2. **Modification.** In the event of a disagreement between the proposer of the
5.2 action and the responsible governmental unit over the cost of an environmental impact
5.3 statement or environmental assessment worksheet, the responsible governmental unit shall
5.4 consult with the board, which may modify the cost or determine that the cost assessed by
5.5 the responsible governmental unit is reasonable.

5.6 Subd. 3. **Use of assessment.** The responsible governmental unit shall assess the
5.7 project proposer for reasonable costs in preparing and distributing the environmental
5.8 impact statement or environmental assessment worksheet and the proposer shall pay the
5.9 assessed cost to the responsible governmental unit. Money received under this subdivision
5.10 by a responsible governmental unit may be retained by the unit for the same purposes.
5.11 Money received by a state agency must be credited to a special account and is appropriated
5.12 to the agency to cover the assessed costs incurred.

5.13 Subd. 4. **Partial cost to be paid.** No responsible governmental unit shall commence
5.14 the preparation of an environmental impact statement or environmental assessment
5.15 worksheet until at least one-half of the assessed cost of the environmental impact statement
5.16 or environmental assessment worksheet is paid pursuant to subdivision 3. Other laws
5.17 notwithstanding, no state agency may issue any permits for the construction or operation
5.18 of a project for which an environmental impact statement or environmental assessment
5.19 worksheet is prepared until the assessed cost for the environmental impact statement or
5.20 environmental assessment worksheet has been paid in full.