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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 3737

03/31/2016 Authored by Fabian and Ecklund
The bill was read for the first time and referred to the Committee on Rules and Legislative Administration

1.1 A bill for an act
1.2 relating to environment; providing for expedited environmental review billing
1.3 option; appropriating money; amending Minnesota Statutes 2015 Supplement,
1.4 section 116.07, subdivision 4d.

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

1.6 Section 1. Minnesota Statutes 2015 Supplement, section 116.07, subdivision 4d,
1.7 is amended to read:

1.8 Subd. 4d. **Permit fees.** (a) The agency may collect permit fees in amounts not greater
1.9 than those necessary to cover the reasonable costs of developing, reviewing, and acting
1.10 upon applications for agency permits and implementing and enforcing the conditions of
1.11 the permits pursuant to agency rules. Permit fees shall not include the costs of litigation.
1.12 The fee schedule must reflect reasonable and routine direct and indirect costs associated
1.13 with permitting, implementation, and enforcement. The agency may impose an additional
1.14 enforcement fee to be collected for a period of up to two years to cover the reasonable costs
1.15 of implementing and enforcing the conditions of a permit under the rules of the agency.
1.16 Any money collected under this paragraph shall be deposited in the environmental fund.

1.17 (b) Notwithstanding paragraph (a), the agency shall collect an annual fee from
1.18 the owner or operator of all stationary sources, emission facilities, emissions units, air
1.19 contaminant treatment facilities, treatment facilities, potential air contaminant storage
1.20 facilities, or storage facilities subject to a notification, permit, or license requirement
1.21 under this chapter, subchapters I and V of the federal Clean Air Act, United States Code,
1.22 title 42, section 7401 et seq., or rules adopted thereunder. The annual fee shall be used to
1.23 pay for all direct and indirect reasonable costs, including legal costs, required to develop
1.24 and administer the notification, permit, or license program requirements of this chapter,

2.1 subchapters I and V of the federal Clean Air Act, United States Code, title 42, section 7401
2.2 et seq., or rules adopted thereunder. Those costs include the reasonable costs of reviewing
2.3 and acting upon an application for a permit; implementing and enforcing statutes, rules,
2.4 and the terms and conditions of a permit; emissions, ambient, and deposition monitoring;
2.5 preparing generally applicable regulations; responding to federal guidance; modeling,
2.6 analyses, and demonstrations; preparing inventories and tracking emissions; and providing
2.7 information to the public about these activities.

2.8 (c) The agency shall set fees that:

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

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

2.17 (3) shall collect, in the aggregate, from the sources listed in paragraph (b), the
2.18 amount needed to match grant funds received by the state under United States Code, title
2.19 42, section 7405 (section 105 of the federal Clean Air Act).

2.20 The agency must not include in the calculation of the aggregate amount to be collected
2.21 under clauses (1) and (2) any amount in excess of 4,000 tons per year of each air pollutant
2.22 from a source. The increase in air permit fees to match federal grant funds shall be a
2.23 surcharge on existing fees. The commissioner may not collect the surcharge after the grant
2.24 funds become unavailable. In addition, the commissioner shall use nonfee funds to the
2.25 extent practical to match the grant funds so that the fee surcharge is minimized.

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

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

3.1 (f) Permit applicants who wish to construct, reconstruct, or modify a facility may
3.2 offer to reimburse the agency for the costs of staff time or consultant services needed to
3.3 expedite the permit development process, including the analysis of environmental review
3.4 documents. The reimbursement shall be in addition to permit application fees imposed by
3.5 law. When the agency determines that it needs additional resources to develop the permit
3.6 application in an expedited manner, and that expediting the development is consistent with
3.7 permitting program priorities, the agency may accept the reimbursement. Reimbursements
3.8 accepted by the agency are appropriated to the agency for the purpose of developing
3.9 the permit or analyzing environmental review documents. Reimbursement by a permit
3.10 applicant shall precede and not be contingent upon issuance of a permit; shall not affect
3.11 the agency's decision on whether to issue or deny a permit, what conditions are included
3.12 in a permit, or the application of state and federal statutes and rules governing permit
3.13 determinations; and shall not affect final decisions regarding environmental review.

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

3.15 (h) A project proposer who wishes to construct, reconstruct, or modify a project
3.16 that is required to complete an environmental impact statement under section 116D.04
3.17 may request the commissioner of the Pollution Control Agency to assess the proposer
3.18 for the costs of staff time or consultant services needed to expedite the preapplication
3.19 process and permit development process, including the analysis of environmental review
3.20 documents. The payment is in addition to permit application fees imposed by law. When
3.21 the commissioner determines that additional resources are needed to develop the permit
3.22 application in an expedited manner and that expediting the development is consistent with
3.23 permitting program priorities, the commissioner may accept the payment offer and submit
3.24 to the proposer a draft cost agreement within 15 days of the request. The agreement
3.25 must include a brief description of the tasks and the estimated cost of each task to be
3.26 performed by the commissioner in developing the permit. The proposer may request
3.27 changes in the cost agreement. After signing an agreement with the commissioner, the
3.28 proposer seeking expedited review under this paragraph must make a cash payment to
3.29 the commissioner of at least one-half of the agreed cost for commissioner tasks within
3.30 ten days. The commissioner must not proceed to expedite the permit development until
3.31 the payment has been received. The remainder of the proposer's cash payment must be
3.32 paid on a schedule agreed to by the commissioner and the proposer. If the cash payments
3.33 made by the proposer exceed the commissioner's actual permit development costs to
3.34 expedite, the commissioner must refund the overpayment. The refund must be paid within
3.35 30 days of completion by the commissioner of the accounting of the permit development
3.36 costs. Payments accepted by the commissioner are appropriated to the commissioner for

4.1 the purpose of developing the permit or analyzing environmental review documents.
4.2 Payment by a project proposer must precede and not be contingent upon issuance of a
4.3 permit; does not affect the commissioner's decision on whether to issue or deny a permit,
4.4 what conditions are included in a permit, or the application of state and federal statutes
4.5 and rules governing permit determinations; and does not affect final decisions regarding
4.6 environmental review. The commissioner may require permitting of nonferrous mining
4.7 projects to use the cost assessment procedure in this paragraph. When the commissioner
4.8 requires use of the cost assessment procedure in this paragraph to develop a permit, the
4.9 commissioner may not charge other permit fees under this subdivision.