

HOUSE BILL No. 2548

AN ACT concerning the department of health and environment; relating to fee funds; creating the water program management fund; transferring the air quality fee fund; amending K.S.A. 65-3008 and 65-3024 and K.S.A. 2013 Supp. 65-166a and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

New Section 1. (a) There is hereby created in the state treasury the water program management fund. The secretary shall remit to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, all moneys collected or received by the secretary from the following sources: (1) Water pollution control permit system fees imposed pursuant to K.S.A. 65-166a, and amendments thereto;

(2) interest attributable to investment of moneys in the water program management fund;

(3) gifts, grants, reimbursements or appropriations intended to be used for the purposes of the fund, but excluding federal grants and cooperative agreements; and

(4) any other moneys provided by law.

Upon receipt of each such remittance, the state treasurer shall deposit in the state treasury any amount remitted pursuant to this subsection to the credit of the water program management fund.

(b) Moneys in the water program management fund shall be expended for the following purposes: (1) Monitoring and investigating the quality of waters of the state;

(2) payment of the state's share of the clean water act matching costs, as required by the federal clean water act, 33 U.S.C. § 1256(d);

(3) payment for emergency action by the secretary as necessary or appropriate to assure that the public health or safety is not threatened whenever there is a release from a wastewater treatment facility;

(4) payment of the administrative, technical and legal costs incurred by the secretary in carrying out the provisions of K.S.A. 65-159 through 65-171y, and amendments thereto, including the cost of any additional employees or increased general operating costs of the department attributable therefore; and

(5) development of educational materials and programs for informing the public about water issues.

(c) Expenditures from the water program management fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or a person designated by the secretary.

(d) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the water program management fund interest earnings based on: (1) The average daily balance of moneys in the water program management fund for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(e) The water program management fund shall be used for the purposes set forth in this act and for no other governmental purposes. It is the intent of the legislature that the fund shall remain intact and inviolate for the purposes set forth in this act, and moneys in the fund shall not be subject to the provisions of K.S.A. 75-3722, 75-3725a and 75-3726a, and amendments thereto.

(f) The secretary shall prepare and deliver to the legislature on or before the first day of each regular legislative session, a report which summarizes all expenditures from the water program management fund, fund revenues and recommendations regarding the adequacy of the fund to support necessary water program management programs.

Sec. 2. K.S.A. 2013 Supp. 65-166a is hereby amended to read as follows: 65-166a. (a) The secretary of health and environment is authorized and directed to establish by duly adopted rules or regulations a schedule of fees to defray all or any part of the costs of administering the water pollution control permit system established by K.S.A. 65-165 and 65-166, and amendments thereto. The amount of the fees so established shall be based upon the quantity of raw wastes or treated wastes to be discharged, units of design capacity of treatment facilities or structures, numbers of potential pollution units, physical or chemical characteristics of discharges and staff time necessary for review and evaluation of proposed projects. In establishing the fee schedule, the secretary of health and environment

shall not assess fees for permits required in the extension of a sewage collection system, but such fees shall be assessed for all treatment devices, facilities or discharges where a permit is required by law and is issued by the secretary of health and environment or the secretary's designated representative. Such fees shall be nonrefundable.

(b) Any such permit for which a fee is assessed shall expire five years from the date of its issuance. The secretary of health and environment may issue permits pursuant to K.S.A. 65-165, and amendments thereto, for terms of less than five years, if the secretary determines valid cause exists for issuance of the permit with a term of less than five years. The minimum fee assessed for any permit issued pursuant to K.S.A. 65-165, and amendments thereto, shall be for not less than one year. Permit fees may be assessed and collected on an annual basis and failure to pay the assessed fee shall be cause for revocation of the permit. Any permit which has expired or has been revoked may be reissued upon payment of the appropriate fee and submission of a new application for a permit as provided in K.S.A. 65-165 and 65-166, and amendments thereto.

(c) A permit shall be required for:

(1) Any confined feeding facility with an animal unit capacity of 300 to 999 if the secretary determines that the facility has significant water pollution potential; and

(2) any confined feeding facility with an animal unit capacity of 1,000 or more.

(d) At no time shall the annual permit fee for a confined feeding facility exceed:

(1) \$25 for facilities with an animal unit capacity of not more than 999;

(2) \$100 for facilities with an animal unit capacity of 1,000 to 4,999;

(3) \$200 for facilities with an animal unit capacity of 5,000 to 9,999;

or

(4) \$400 for facilities with an animal unit capacity of 10,000 or more.

(e) Annual permit fees for any truck washing facility for animal wastes shall be as follows:

(1) For a private truck washing facility for animal wastes with two or fewer trucks, not more than \$25;

(2) for a private truck washing facility for animal wastes with three or more trucks, not more than \$200; and

(3) for a commercial truck washing facility for animal wastes, not more than \$320.

(f) The secretary of health and environment shall remit all moneys received from the fees established pursuant to this act to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the ~~state general fund~~ *water program management fund created in section 1, and amendments thereto*.

(g) Any confined feeding facility with an animal unit capacity of less than 300 may be required to obtain a permit from the secretary if the secretary determines that such facility has significant water pollution potential.

(h) Any confined feeding facility not otherwise required to obtain a permit or certification may obtain a permit or certification from the secretary. Any such facility obtaining a permit shall pay an annual permit fee of not more than \$25.

Sec. 3. K.S.A. 65-3008 is hereby amended to read as follows: 65-3008.

(a) No person shall construct, own, operate, install, alter or use any air contaminant emission stationary source which, in accordance with rules and regulations, the secretary finds may cause or contribute to air pollution, unless an appropriate approval or permit has been issued for the source by the secretary under this act. Approvals or permits issued by the secretary may be subject to conditions consistent with the purposes of this act and rules and regulations promulgated under this act.

(b) The secretary shall require that applications for approvals and permits, and renewals thereof, under this act shall be accompanied by application fees and such plans, specifications, compliance plans or other information as the secretary deems necessary. Applications shall be submitted on forms provided by the secretary and shall be signed by a re-

sponsible official of the source, who shall certify the accuracy of the information submitted.

(c) The issuance or holding of an approval or permit shall not convey any property right or exclusive privilege to the holder thereof.

(d) Without any further action on the part of the secretary, an approval or a permit shall become void and without effect on its expiration date unless a completed application form and any required fee are filed with the secretary on or before the expiration date of the approval or the permit. For purposes of this subsection, the secretary may specify by rule and regulation an amount of time prior to the expiration date of an operating permit by which a complete application form and any required fee must be filed with the secretary in order to be considered timely filed. The secretary may provide for a grace period by rule and regulation.

(e) The secretary may issue by rule and regulation a general approval or permit covering numerous similar sources. Any general approval or permit shall comply with all requirements applicable to approvals or permits under this act. Any source covered by a general approval or permit must apply to the secretary and receive authority to operate under the general approval or permit.

(f) The secretary may fix, charge and collect fees for approvals and permits, and the renewal thereof, to cover all or any part of the cost of administering the provisions of Kansas air quality act, other than K.S.A. 65-3027, *and amendments thereto*. The secretary shall adopt rules and regulations fixing such fees. The fees shall be deposited in the state treasury and credited to the ~~state general fund~~ *air quality fee fund established in K.S.A. 65-3024, and amendments thereto*, except that if all or any portion of the regulatory services for which a fee is collected under this section is performed by a county, city-county or multicounty health department, that portion of such fee which pertains to such services, as determined by the secretary, shall be credited to the local air quality control authority regulation services fund, which is hereby created in the state treasury, and shall be paid from such fund to such local air quality control authority.

Sec. 4. K.S.A. 65-3024 is hereby amended to read as follows: 65-3024.

(a) The secretary may fix, charge and collect annual emissions fees in amounts necessary to pay the direct and indirect costs of administering the provisions of the Kansas air quality act. The secretary shall adopt rules and regulations fixing such fees and shall periodically increase or decrease such fees consistent with the need to cover the direct and indirect costs of administering the program. To the extent possible, annual emission fees shall be based upon actual emissions determined pursuant to rules and regulations adopted by the secretary. For purposes of determining emission fees for a facility, emissions of any single regulated pollutant in excess of 4,000 tons per year shall not be included in the calculation when determining the total emissions from the facility.

(b) There is hereby established in the state treasury the air quality fee fund. Revenue from the following sources shall be deposited in the state treasury and credited to the fund:

(1) Fees collected under subsection (a);

(2) any moneys recovered by the state under the provisions of this act, including *permit and approval fees collected under K.S.A. 65-3008, and amendments thereto*, administrative expenses, civil penalties and moneys paid under any agreement, stipulation or settlement; and

(3) interest attributable to investment of moneys in the fund.

(c) Moneys deposited in the fund shall be expended only for the purpose of administering the Kansas air quality act, including funding of a technical and environmental compliance assistance program, and for no other governmental purposes.

(d) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the air quality fee fund interest earnings based on:

(1) The average daily balance of moneys in the air quality fee fund for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(e) All expenditures from the fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports

issued pursuant to vouchers approved by the secretary for the purposes set forth in this section.

Sec. 5. K.S.A. 65-3008 and 65-3024 and K.S.A. 2013 Supp. 65-166a are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

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\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

Passed the SENATE \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*