

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 4488

BY DELEGATES ANDERSON, J. KELLY, HANSEN, AND

YOUNG

[Passed March 11, 2022; in effect ninety days from passage.]

1 AN ACT to amend and reenact §22-11-10 of the Code of West Virginia, 1931, as amended,
2 relating to coal mining operations, permitting, and fees paid to the Department of
3 Environmental Protection; increasing certain defined fees for permitting actions; and
4 establishing and defining certain new fees for permitting actions.

Be it enacted by the Legislature of West Virginia:

CHAPTER 22. ENVIRONMENTAL RESOURCES.

ARTICLE 11. WATER POLLUTION CONTROL ACT.

§22-11-10. Water Quality Management Fund established; permit application fees; annual permit fees; dedication of proceeds; rules.

1 (a) The special revenue fund designated the Water Quality Management Fund established
2 in the State Treasury on July 1, 1989, is hereby continued.

3 (b) The permit application fees and annual permit fees established and collected pursuant
4 to this section; any interest or surcharge assessed and collected by the secretary; interest
5 accruing on investments and deposits of the fund; and any other moneys designated by the
6 secretary shall be deposited into the Water Quality Management Fund. The secretary shall
7 expend the proceeds of the Water Quality Management Fund for the review of initial permit
8 applications, renewal permit applications, and permit issuance activities.

9 (c) The secretary shall propose for promulgation, legislative rules in accordance with the
10 provisions of § 29A-1-1 *et seq.* of this code, to establish a schedule of application fees for all
11 applications except for surface coal mining operations as defined in § 22-3-13 of this code. The
12 appropriate fee shall be submitted by the applicant to the department with the application filed
13 pursuant to this article for any state water pollution control permit or national pollutant discharge
14 elimination system permit. The schedule of application fees shall be designed to establish
15 reasonable categories of permit application fees based upon the complexity of the permit
16 application review process required by the department pursuant to the provisions of this article

17 and the rules promulgated under this article: *Provided*, That no initial application fee may exceed
18 \$15,000 for any facility nor may any permit renewal application fee exceed \$5,000. The
19 department may not process any permit application pursuant to this article until the required
20 permit application fee has been received.

21 (d) The secretary shall propose for promulgation legislative rules in accordance with the
22 provisions of § 29A-1-1 *et seq.* of this code to establish a schedule of permit fees to be assessed
23 annually upon each person holding a state water pollution control permit or national pollutant
24 discharge elimination system permit issued pursuant to this article except for permits held by
25 surface coal mining operations as defined in § 22-3-1 *et seq.* of this code. Each person holding a
26 permit shall pay the prescribed annual permit fee to the department pursuant to the rules
27 promulgated under this section: *Provided*, That no person holding a permit for a home aerator of
28 600 gallons and under shall be required to pay an annual permit fee. The schedule of annual
29 permit fees shall be designed to establish reasonable categories of annual permit fees based
30 upon the relative potential of categories or permits to degrade the waters of the state: *Provided*,
31 *however*, That no annual permit fee may exceed \$5,000. The secretary may declare any permit
32 issued pursuant to this article void when the annual permit fee is more than 90 days past due
33 pursuant to the rules promulgated under this section. Voiding of the permit will only become
34 effective upon the date the secretary mails, by certified mail, written notice to the permittee's last
35 known address notifying the permittee that the permit has been voided.

36 (e) The secretary shall file a quarterly report with the Joint Committee on Government and
37 Finance setting forth the fees established and collected pursuant to this section.

38 (f) On July 1, 2022, and each year thereafter, a \$1,000 fee shall be assessed for permit
39 applications and a \$3,000 fee shall be assessed for permit renewals submitted pursuant to this
40 article for surface coal mining operations, as defined in §22-3-1 *et seq.* of this code. On July 1,
41 2022, and each year thereafter, a \$2,000 fee shall be assessed for application for major permit
42 modifications and a \$1,000 fee for minor permit modifications submitted pursuant to this article

43 for surface coal mining operations, as defined in § 22-3-1 *et seq.* of this code. On July 1, 2022,
44 and each year thereafter, a \$3,000 fee shall be assessed for application for permit reissuance
45 and a \$2,000 fee for permit transfer submitted pursuant to this article for surface coal mining
46 operations, as defined in §22-3-1 *et seq.* of this code. Beginning July 1, 2022, and every year
47 thereafter, an annual permit fee of \$2,000 shall be assessed on the issuance anniversary dates
48 of all permits issued pursuant to this article for surface coal mining operations as defined in § 22-
49 3-1 *et seq.* of this code. Beginning July 1, 2022, and each year thereafter, an application for a
50 water quality certification for activities covered by United States Army Corps of Engineers permits
51 issued pursuant to 33 U.S.C. § 1344 and 33 C.F.R. Parts 323 or 330, in accordance with the
52 legislative rules entitled Rules for Individual State Certification of Activities Requiring a Federal
53 Permit, 47 C.F.R. 5A, must be accompanied by a \$500 fee. For all other categories of permitting
54 actions pursuant to this article related to surface coal mining operations, the secretary shall
55 propose for promulgation legislative rules in accordance with the provisions of §29A-1-1 *et seq.*
56 of this code to establish a schedule of permitting fees.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2022.

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Governor