

CHAPTER 138

HEALTH AND ENVIRONMENT

HOUSE BILL 16-1413

BY REPRESENTATIVE(S) Rankin, Hamner, Young, Arndt, Becker K., Duran, Fields, Lontine, Mitsch Bush, Pettersen, Rosenthal, Williams, Hullinghorst; also SENATOR(S) Grantham, Lambert, Steadman.

AN ACT

CONCERNING THE FINANCING OF THE WATER POLLUTION CONTROL PROGRAM, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 25-8-502, **amend** (1.1) (e) introductory portion, (1.2) (a) introductory portion, (1.5) (a), (1.5) (b), and (1.7); **repeal** (1.1) (e) (XIII) and (1.1) (e) (XIV); and **add** (1.1) (f) as follows:

25-8-502. Application - definitions - fees - funds created - public participation - repeal. (1.1) For each regulated activity listed in this subsection (1.1), the division may assess an annual permit fee and a nonrefundable permit application fee for new permits that must equal fifty percent of the annual permit fee. The full amount of the application fee is credited toward the annual permit fee. All such fees must be in accordance with the following schedules:

(e) The public and private utilities sector includes annual fee schedules for regulated activities associated with the operation of domestic wastewater treatment works, water treatment facilities, reclaimed water systems, ~~municipal separate storm sewer systems~~, and industrial operations that discharge to a domestic wastewater treatment works as follows:

Facility Categories and Subcategories for Permit Fees within the Public and Private Utilities Sector

Annual Fees

(XIII) ~~MS4 general permits:~~

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(A) Storm water municipal for a population of 10,000 or fewer	\$ 355
(B) Storm water municipal for a population from 10,000 up to 49,999	\$ 810
(C) Storm water municipal for a population from 50,000 up to 100,000	\$ 2,020
(D) Storm water municipal for a population of 100,000 or more	\$ 4,050
(XIV) MS4 individual permits:	
(A) Municipalities with a population from 10,000 up to 49,999	\$ 1,245
(B) Municipalities with a population from 50,000 up to 99,999	\$ 3,110
(C) Municipalities with a population from 100,000 up to 249,999	\$ 6,225
(D) Municipalities with a population of 250,000 or more	\$10,580
(E) Statewide permit for municipal separate storm-water systems, owned or operated by the department of transportation, in municipal areas where storm water permits are required	\$ 4,360
(f) THE MUNICIPAL SEPARATE STORM SEWER SYSTEMS SECTOR INCLUDES ANNUAL FEES FOR REGULATED ACTIVITIES ASSOCIATED WITH THE OPERATION OF MUNICIPAL SEPARATE STORM SEWER SYSTEMS, AS FOLLOWS:	

Facility Categories and Subcategories for Permit Fees within the Municipal Separate Storm Sewer System Sector

Annual Fees

(I) MS4 GENERAL PERMITS:	
(A) STORM WATER MUNICIPAL FOR A POPULATION OF 10,000 OR FEWER	\$ 355
(B) STORM WATER MUNICIPAL FOR A POPULATION FROM 10,000 UP TO 49,999	\$ 810
(C) STORM WATER MUNICIPAL FOR A POPULATION FROM 50,000 UP TO 99,999	\$ 2,020

(D) STORM WATER MUNICIPAL FOR A POPULATION OF 100,000 OR MORE \$ 4,050

(II) MS4 INDIVIDUAL PERMITS:

(A) MUNICIPALITIES WITH A POPULATION FROM 10,000 UP TO 49,999 \$ 1,245

(B) MUNICIPALITIES WITH A POPULATION FROM 50,000 UP TO 99,999 \$ 3,110

(C) MUNICIPALITIES WITH A POPULATION FROM 100,000 UP TO 249,999 \$ 6,225

(D) MUNICIPALITIES WITH A POPULATION OF 250,000 OR MORE \$10,580

(E) STATEWIDE PERMIT FOR MUNICIPAL SEPARATE STORM WATER SYSTEMS, OWNED OR OPERATED BY THE DEPARTMENT OF TRANSPORTATION, IN MUNICIPAL AREAS WHERE STORM WATER PERMITS ARE REQUIRED \$ 4,360

(1.2) (a) For the activities listed in this subsection (1.2) associated with reviewing requests for certifications under section 401 of the federal act and this article, known as "401 certificates", the division may assess a fee for the review. ~~And~~ THERE IS HEREBY CREATED IN THE STATE TREASURY THE WATER QUALITY CERTIFICATION SECTOR FUND, WHICH CONSISTS OF FEES COLLECTED PURSUANT TO THIS SUBSECTION (1.2). THE DIVISION SHALL TRANSMIT THE FEES TO THE STATE TREASURER, WHO SHALL CREDIT THEM TO THE WATER QUALITY CERTIFICATION SECTOR FUND. All such fees must be in accordance with the following schedules:

(1.5) (a) (I) ~~There is hereby created in the state treasury the water quality control~~ COMMERCE AND INDUSTRY SECTOR fund, which consists of all annual fees ~~collected~~ for regulated activities associated with the commerce and industry sector ~~construction sector, pesticide application sector, and public and private utilities sector~~ COLLECTED pursuant to subsection (1.1) of this section; all fees for services performed by the division associated with the commerce and industry sector ~~construction sector, pesticide application sector, and public and private utilities sector~~ ~~in~~ COLLECTED PURSUANT TO subsection (1.3) of this section; ~~all fees collected for activities associated with 401 certificates in subsection (1.2) of this section;~~ and all interim fees ~~in~~ ASSOCIATED WITH THE COMMERCE AND INDUSTRY SECTOR COLLECTED PURSUANT TO subsection (1.4) of this section. The division shall transmit the fees to the state treasurer, who shall credit them to the ~~water quality control~~ COMMERCE AND INDUSTRY SECTOR fund.

(II) THERE IS HEREBY CREATED IN THE STATE TREASURY THE CONSTRUCTION SECTOR FUND, WHICH CONSISTS OF ALL ANNUAL FEES COLLECTED FOR REGULATED ACTIVITIES ASSOCIATED WITH THE CONSTRUCTION SECTOR PURSUANT TO SUBSECTION (1.1) OF THIS SECTION; ALL FEES FOR SERVICES PERFORMED BY THE DIVISION ASSOCIATED WITH THE CONSTRUCTION SECTOR COLLECTED PURSUANT TO

SUBSECTION (1.3) OF THIS SECTION; AND ALL INTERIM FEES ASSOCIATED WITH THE CONSTRUCTION SECTOR COLLECTED PURSUANT TO SUBSECTION (1.4) OF THIS SECTION. THE DIVISION SHALL TRANSMIT THE FEES TO THE STATE TREASURER, WHO SHALL CREDIT THEM TO THE CONSTRUCTION SECTOR FUND.

(III) THERE IS HEREBY CREATED IN THE STATE TREASURY THE PESTICIDES SECTOR FUND, WHICH CONSISTS OF ALL ANNUAL FEES COLLECTED FOR REGULATED ACTIVITIES ASSOCIATED WITH THE PESTICIDES SECTOR PURSUANT TO SUBSECTION (1.1) OF THIS SECTION; ALL FEES FOR SERVICES PERFORMED BY THE DIVISION ASSOCIATED WITH THE PESTICIDES SECTOR COLLECTED PURSUANT TO SUBSECTION (1.3) OF THIS SECTION; AND ALL INTERIM FEES ASSOCIATED WITH THE PESTICIDES SECTOR COLLECTED PURSUANT TO SUBSECTION (1.4) OF THIS SECTION. THE DIVISION SHALL TRANSMIT THE FEES TO THE STATE TREASURER, WHO SHALL CREDIT THEM TO THE PESTICIDES SECTOR FUND.

(IV) THERE IS HEREBY CREATED IN THE STATE TREASURY THE MUNICIPAL SEPARATE STORM SEWER SYSTEM SECTOR FUND, WHICH CONSISTS OF ALL ANNUAL FEES COLLECTED FOR REGULATED ACTIVITIES ASSOCIATED WITH THE MUNICIPAL SEPARATE STORM SEWER SYSTEM SECTOR PURSUANT TO SUBSECTION (1.1) OF THIS SECTION; ALL FEES FOR SERVICES PERFORMED BY THE DIVISION ASSOCIATED WITH THE MUNICIPAL SEPARATE STORM SEWER SYSTEM SECTOR COLLECTED PURSUANT TO SUBSECTION (1.3) OF THIS SECTION; AND ALL INTERIM FEES ASSOCIATED WITH THE MUNICIPAL SEPARATE STORM SEWER SYSTEM SECTOR COLLECTED PURSUANT TO SUBSECTION (1.4) OF THIS SECTION. THE DIVISION SHALL TRANSMIT THE FEES TO THE STATE TREASURER, WHO SHALL CREDIT THEM TO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM SECTOR FUND.

(V) THERE IS HEREBY CREATED IN THE STATE TREASURY THE PUBLIC AND PRIVATE UTILITIES SECTOR FUND, WHICH CONSISTS OF ALL ANNUAL FEES COLLECTED FOR REGULATED ACTIVITIES ASSOCIATED WITH THE PUBLIC AND PRIVATE UTILITIES SECTOR PURSUANT TO SUBSECTION (1.1) OF THIS SECTION; ALL FEES FOR SERVICES PERFORMED BY THE DIVISION ASSOCIATED WITH THE PUBLIC AND PRIVATE UTILITIES SECTOR COLLECTED PURSUANT TO SUBSECTION (1.3) OF THIS SECTION; AND ALL INTERIM FEES ASSOCIATED WITH THE PUBLIC AND PRIVATE UTILITIES SECTOR COLLECTED PURSUANT TO SUBSECTION (1.4) OF THIS SECTION. THE DIVISION SHALL TRANSMIT THE FEES TO THE STATE TREASURER, WHO SHALL CREDIT THEM TO THE PUBLIC AND PRIVATE UTILITIES SECTOR FUND.

(b) (I) ~~The general assembly shall annually appropriate the moneys~~ MONEY in the ~~water quality control fund~~ FUNDS CREATED IN PARAGRAPH (a) OF THIS SUBSECTION (1.5) AND IN SUBSECTION (1.2) OF THIS SECTION TO ~~the department of public health and environment~~ FOR ITS DIRECT AND INDIRECT COSTS IN ADMINISTERING THE APPROPRIATE SECTOR. ~~which~~ THE DEPARTMENT shall review expenditures of ~~such moneys~~ THE MONEY to ensure that ~~they are~~ IT IS USED ONLY TO FUND THE EXPENSES OF THE DISCHARGE PERMIT SYSTEM AND OTHER ACTIVITIES INCLUDED IN SUBSECTIONS (1.1), (1.2), (1.3), and (1.4) OF THIS SECTION AND THAT, EXCEPT AS SPECIFIED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (b):

(A) MONEY DERIVED FROM A PARTICULAR SECTOR IS USED ONLY FOR THAT SECTOR; AND

(B) MONEY DERIVED FROM SUBSECTION (1.2) OF THIS SECTION IS USED ONLY TO PROVIDE WATER QUALITY CERTIFICATIONS.

(II) (A) IF THE MONEY DERIVED FROM A PARTICULAR SECTOR IS INADEQUATE TO COVER THE DEPARTMENT'S DIRECT AND INDIRECT COSTS IN ADMINISTERING THAT SECTOR, THE GENERAL ASSEMBLY MAY, DURING FISCAL YEARS 2016-17 AND 2017-18, APPROPRIATE MONEY FROM ANY OF THE FUNDS CREATED IN PARAGRAPH (a) OF THIS SUBSECTION (1.5) AND IN SUBSECTION (1.2) OF THIS SECTION FOR THE DEPARTMENT'S DIRECT AND INDIRECT COSTS IN ADMINISTERING THAT SECTOR.

(B) DURING THE 2016 INTERIM, THE DEPARTMENT SHALL CONDUCT A STAKEHOLDER PROCESS REGARDING THE APPROPRIATE AND NECESSARY FEES THAT EACH SUBCATEGORY OF EACH SECTOR SHOULD PAY TO ENABLE EACH SECTOR TO BE ADEQUATELY FUNDED BY FEES COLLECTED FROM THAT SECTOR. THE DEPARTMENT SHALL SUBMIT A LEGISLATIVE PROPOSAL TO THE JOINT BUDGET COMMITTEE BY NOVEMBER 1, 2016, CONCERNING ITS CONCLUSIONS REGARDING THE FEES.

(C) THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2018.

(III) All interest earned on the investment or deposit of ~~moneys~~ MONEY in the EACH fund and all unencumbered or unappropriated balances in the EACH fund remain in the EACH INDIVIDUAL fund, shall be appropriated only for the expenses of the discharge permit system, and shall not be transferred or revert to the general fund or any other fund at the end of any fiscal year or any other time.

(1.7) (a) Commencing in 2016, the department of public health and environment shall report annually to:

~~(a)~~ (I) The senate agriculture and natural resources committee and the house of representatives agriculture, livestock, and natural resources committee, or their successor committees, on the environmental agriculture program. The report must include the number of permits processed, the number of inspections conducted, the number of enforcement actions taken, and the costs associated with all program activities during the preceding year. The department shall submit the report on or before March 31 of each year; AND

~~(b)~~ (II) The joint budget committee BY NOVEMBER 1 OF EACH YEAR regarding the fee revenue received from each sector specified in ~~subsection (1.1)~~ SUBSECTIONS (1.1), (1.2), AND (1.3) of this section, INCLUDING EXPENDITURES BY FUND SOURCE AND REVENUES BY FUND AND SECTOR SOURCE BASED ON THE NOVEMBER 1 REQUEST.

(b) THE REPORTING REQUIRED BY THIS SECTION IS EXEMPT FROM SECTION 24-1-136, C.R.S.

SECTION 2. In Colorado Revised Statutes, 25-8-608, **add** (4) as follows:

25-8-608. Civil penalties - rules - fund created - temporary moratorium on penalties for minor violations - definitions - repeal. (4) (a) ON JULY 1, 2016, THE STATE TREASURER SHALL TRANSFER ONE MILLION TWO HUNDRED EIGHT THOUSAND SEVEN DOLLARS OF THE EXCESS UNCOMMITTED RESERVE OF THE WATER QUALITY

IMPROVEMENT FUND TO THE GENERAL FUND.

(b) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2017.

SECTION 3. Appropriation. (1) For the 2016-17 state fiscal year, \$1,208,007 is appropriated to the department of public health and environment for use by the water quality control division. This appropriation is from the general fund. To implement this act, the division may use this appropriation as follows:

- (a) \$362,402 for the commerce and industry sector;
- (b) \$60,400 for the municipal separate storm sewer system sector; and
- (c) \$785,205 for the public and private utilities sector.

SECTION 4. Effective date. This act takes effect July 1, 2016.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 4, 2016