

## SENATE PROPOSAL OF AMENDMENT

### H. 769

An act relating to department of environmental conservation fees

The Senate proposes to the House to amend the bill as follows:

First: In Sec. 1, 3 V.S.A. § 2822(j)(1)(B) by striking out “, provided that a plant producing renewable energy as defined in 30 V.S.A. § 8002 shall pay an annual fee not exceeding \$64,000.00”

Second: By striking out Sec. 3 and inserting a new Sec. 3 to read:

Sec. 3. 10 V.S.A. § 1943 is amended to read:

#### § 1943. PETROLEUM TANK ASSESSMENT

(a) Each owner of a category one tank used for storage of petroleum products shall remit to the secretary on October 1 of each year ~~beginning October 1, 1988,~~ a fee that shall be deposited in the petroleum cleanup fund established under section 1941 of this title.

(1) For retail gasoline outlets that sell 40,000 gallons or more of motor fuel per month the fee shall be:

(A) \$100.00 per double-wall tank, which shall be deposited to the petroleum cleanup fund established by section 1941 of this title, except that system;

(B) \$150.00 per combination tank system on October 1, 2012; \$250.00 on October 1, 2013; \$350.00 on October 1, 2014; and

(C) \$200.00 per single-wall tank system on October 1, 2012; \$400.00 on October 1, 2013; \$600.00 on October 1, 2014.

~~(1)(2) The fee shall be \$50.00 per tank for~~ For retail gasoline outlets that sell less than 40,000 gallons of motor fuel per month, the fee shall be:

(A) \$75.00 per double-wall tank system;

(B) \$125.00 per combination tank system on October 1, 2012; \$200.00 on October 1, 2013; \$275.00 on October 1, 2014; and

(C) \$175.00 per single-wall tank system on October 1, 2012; \$300.00 on October 1, 2013; \$425.00 on October 1, 2014.

~~(2)(3)~~ (3) The fee shall be reduced by 50 percent if the owner or permittee provides to the satisfaction of the secretary evidence of financial responsibility to allow the taking of corrective action in the amount of \$100,000.00 per occurrence and the compensation of third parties for bodily injury and property damage in the amount of \$300,000.00 per occurrence.

~~(3)(4)~~ (4) The fee shall be relieved if the owner provides to the satisfaction

of the secretary, evidence of financial responsibility to allow the taking of corrective action and the compensation of third parties for bodily injury and property damage each in the amount of \$1,000,000.00 per occurrence.

~~(4)(5)~~ The fee for retail motor fuel outlets selling 20,000 gallons or less per month shall not exceed \$100.00 per year for all tanks at a single location shall be:

(A) \$50.00 per double-wall tank system;

(B) \$75.00 per combination tank system on October 1, 2012; \$125.00 on October 1, 2013; \$175.00 on October 1, 2014; and

(C) \$100.00 per single-wall tank system on October 1, 2012; \$200.00 on October 1, 2013; \$300.00 on October 1, 2014.

~~(5)(6)~~ The fee shall be \$50.00 per tank for For any municipality that uses an annual average of less than ~~an annual average of~~ 40,000 gallons of motor fuel per month, provided that all of the tanks of that municipality meet the requirements of this chapter, the fee shall be:

(A) \$50.00 per double-wall tank system;

(B) \$100.00 per combination tank system on October 1, 2012; \$150.00 on October 1, 2013; \$200.00 on October 1, 2014; and

(C) \$150.00 per single-wall tank system on October 1, 2012; \$250.00 on October 1, 2013; \$350.00 on October 1, 2014.

(b) For purposes of this section, an occurrence is an accident, including continuous or repeated exposure to conditions, which results in the release of petroleum from one or more underground storage tanks at the same site.

(c) This tank assessment shall terminate on July 1, 2014.

(d) The secretary shall establish forms and procedures for the payment of the petroleum tank assessment, including a notice of the obligation 30 days prior to being due. Failure to receive notice shall not waive the payment obligation.

Third: In Sec. 4, Petroleum advisory committee report, by adding a new subdivision (5) to read:

(5) Current tank technology and its impact on safety and the rate of current tank fees.

Fourth: By striking Sec. 8 and inserting a new Sec. 8 to read:

Sec. 8. 10 V.S.A. § 6083a is amended to read:

§ 6083a. ACT 250 FEES

(a) All applicants for a land use permit under section 6086 of this title shall be directly responsible for the costs involved in the publication of notice in a newspaper of general circulation in the area of the proposed development or subdivision and the costs incurred in recording any permit or permit amendment in the land records. In addition, applicants shall be subject to the following fees for the purpose of compensating the state of Vermont for the direct and indirect costs incurred with respect to the administration of the Act 250 program:

\* \* \*

(4) For projects involving the extraction of earth resources, including but not limited to sand, gravel, peat, topsoil, crushed stone, or quarried material, the greater of (a) a fee as determined under subdivision (1) of this subsection or (b) a fee equivalent to the rate of \$0.20 \$0.02 per cubic yard of maximum estimated annual extraction whichever is greater the first million cubic yards of the total volume of earth resources to be extracted over the life of the permit, and \$0.01 per cubic yard of any such earth resource extraction above one million cubic yards. Extracted material that is not sold or does not otherwise enter the commercial marketplace shall not be subject to the fee. The fee assessed under this subdivision for an amendment to a permit shall be based solely upon any additional volume of earth resources to be extracted under the amendment.

\* \* \*

Fifth: By striking Secs. 9 and 11 in their entirety

Sixth: By adding Secs. 12, 13, 14, 15, 16, 17, and 18 to read:

Sec. 12. 3 V.S.A. § 2809 is amended to read:

§ 2809. REIMBURSEMENT OF AGENCY COSTS

(a)(1) The secretary may require an applicant for a permit, license, certification, or order issued under a program that the secretary enforces under 10 V.S.A. § 8003(a) to pay for the cost of research, scientific, or engineering expertise or regulatory services that provided by the agency of natural resources ~~does not have when such expertise or services are~~ required for the processing of the application for the permit, license, certification, or order.

(2) The secretary may require an applicant under 10 V.S.A. chapter 151 ~~of Title 10~~ to pay for the time of agency of natural resources personnel providing research, scientific, or engineering services or for the cost of expert witnesses when agency personnel or expert witnesses are required for the processing of the permit application.

(3) ~~Except as~~ In addition to the authority set forth under 10 V.S.A. chapters 59 and 159 ~~of Title 10~~ and 10 V.S.A. § 1283, the secretary may require a person who caused the agency to incur expenditures or a person in

violation of a permit, license, certification, or order issued by the secretary to pay for the time of agency personnel or the cost of other research, scientific, or engineering services incurred by the agency in response to a threat to public health or the environment presented by an emergency or exigent circumstance.

\* \* \*

(d) The following apply to the authority established under subsection (a) of this section:

~~(1) The secretary may assess costs under subdivisions (a)(1) and (2) of this section to the applicant or applicants for the permit only with the approval of the governor. Costs assessed under subdivision (a)(3) shall not require approval of the governor.~~

~~(2) The secretary may require reimbursement only of costs in excess of \$3,000.00.~~

~~(3)~~ The secretary may revise estimates previously noticed as necessary from time to time during the progress of the work and shall notify the applicant in writing of any revision.

~~(4)~~<sup>(2)</sup> The secretary shall provide the applicant with a detailed statement of a final assessment under this section showing the total amount of money expended or contracted for in the work and directing the manner and timing of payment by the applicant.

~~(5)~~<sup>(3)</sup> All funds collected from applicants shall be paid into the state treasury.

\* \* \*

(g) Concerning an application for a permit to discharge stormwater runoff from a telecommunications facility as defined in 30 V.S.A. § 248a that is filed before July 1, 2014:

~~(1) Under subdivision (a)(1) of this section, the agency shall not require an applicant to pay more than \$10,000.00 with respect to a facility.~~

~~(2) The, the provisions of subsection (c)(mandatory meeting) of this section shall not apply.~~

Sec. 13. 24 V.S.A. § 4753(a)(9) is added to read:

(9) The Vermont wastewater and potable water revolving loan fund which shall be used to provide loans to individuals, in accordance with section 4763a of this title, for the design and construction of repairs to or replacement of wastewater systems and potable water supplies when the wastewater system or potable water supply is a failed system or supply as defined in 10 V.S.A. § 1972. The amount of \$275,000.00 from the fees collected pursuant to 3 V.S.A. § 2822(j)(4) shall be deposited on an annual basis into this fund.

Sec. 14. 24 V.S.A. § 4763a is added to read:

§ 4763a. LOANS TO INDIVIDUALS FOR FAILED WASTEWATER SYSTEMS AND FAILED POTABLE WATER SUPPLIES

(a) Notwithstanding any other provision of law, when the wastewater system or potable water supply serving only one single-family residence on its own lot meets the definition of a failed supply or system, the secretary of natural resources may lend monies to the owner of the residence from the Vermont wastewater and potable water revolving loan fund established in section 4753 of this title. In such cases, the following conditions shall apply:

(1) loans may only be made to households with an income equal to or less than 200 percent of the state average median household income;

(2) loans may only be made to households where the recipient of the loan resides in the residence on a year-round basis;

(3) loans may only be made if the owner of the residence has been denied financing for the repair, replacement, or construction due to involuntary disconnection by at least two other financing entities;

(4) no construction loan shall be made to an individual under this subsection, nor shall any part of any revolving loan made under this subsection be expended, until all of the following take place:

(A) the secretary of natural resources determines that if a wastewater system and potable water supply permit is necessary for the design and construction of the project to be financed by the loan, the permit has been issued to the owner of the failed system or supply; and

(B) the individual applying for the loan certifies to the secretary of natural resources that the proposed project has secured all state and federal permits, licenses, and approvals necessary to construct and operate the project to be financed by the loan.

(5) all funds from the repayment of loans made under this section shall be deposited into the Vermont wastewater and potable water revolving loan fund.

(b) The secretary of natural resources shall establish standards, policies, and procedures as necessary for the implementation of this section.

Sec. 15. 24 V.S.A. § 4753a is amended to read:

§ 4753a. AWARDS FROM REVOLVING LOAN FUNDS

(a) Pollution control. The general assembly shall approve all categories of awards made from the special funds established by section 4753 of this title for water pollution control facility construction, in order to assure that such awards conform with state policy on water quality and pollution abatement, and with

the state policy that, ~~except as provided in subsection (c) of this section,~~ municipal entities shall receive first priority in the award of public monies for such construction, including monies returned to the revolving funds from previous awards. To facilitate this legislative oversight, the secretary of natural resources shall annually no later than January 15 report to the house and senate committees on institutions and on natural resources and energy on all awards made from the relevant special funds during the prior and current fiscal years, and shall report on and seek legislative approval of all the types of projects for which awards are proposed to be made from the relevant special funds during the current or any subsequent fiscal year. Where feasible, the specific projects shall be listed.

(b) Water supply. The secretary of natural resources shall no later than January 15, 2000 recommend to the house ~~and senate committees on institutions and~~ committee on corrections and institutions, the senate committee on institutions, and the house and senate committees on natural resources and energy a procedure for reporting to and seeking the concurrence of the legislature with regard to the special funds established by section 4753 of this title for water supply facility construction.

~~(c) Notwithstanding other priorities established in law, the secretary may award up to \$500,000.00 of the funds from the Vermont environmental protection agency control fund and the Vermont pollution control revolving fund, combined, to a state agency, the Vermont housing finance agency, or a municipality for the administration of loans to households with income equal to or less than 200 percent of the state average median household income for the repair or replacement of failed wastewater systems and failed potable water supplies, as those terms are defined in section 1972 of Title 10. Upon award of funds under this section, the state agency, Vermont housing finance agency, or municipality shall agree, pursuant to a memorandum of understanding with the secretary of natural resources, to repay the funds awarded to the special fund from which they were drawn.~~

#### Sec. 16. ANR REPORT ON ENVIRONMENTAL IMPACT OF GROUNDWATER WITHDRAWALS FOR BOTTLING WATER

(a) On or before January 15, 2013, the secretary of natural resources shall report to the senate and house committees on natural resources and energy, the senate committee on finance, and the house committee on ways and means regarding the impact of groundwater withdrawals by public water systems for the purposes of transfer out of the state for bottling. The report shall include:

(1) An analysis of the environmental effect of withdrawing and transferring out of the state large volumes of groundwater for the purposes of bottling, including the impact of such withdrawals on drinking water supplies, agricultural use, groundwater tables, and surface water recharge.

(2) A summary of the fees charged by other states for the withdrawal of groundwater for bottling or bulk water transfer and a comparison of the fees of other states to the groundwater withdrawal fees charged in Vermont.

(b) In preparing the report required under subsection (a) of this section, the secretary of natural resources shall consult with interested parties, including owners of property in the proximity of public water systems withdrawing groundwater for the purposes of bottling water, public water systems, bottled water companies, environmental groups, and representatives of agriculture.

(c) As used in this section, "public water system" shall be defined as provided in 10 V.S.A. § 1671.

#### Sec. 17. STUDY; DEPARTMENT OF PUBLIC SAFETY

(a) The department of public safety shall study how it assesses fees or charges for services provided by the department to municipalities, fire departments, and other entities. The study shall also examine how fees or charges can be equitably assessed and what mechanism can be employed to collect fees or charges.

(b) The department shall report its findings and any recommendations to the house committee on ways and means and the senate committee on finance by January 15, 2013.

#### Sec. 18. REPORT; AGENCY OF NATURAL RESOURCES; AGENCY OF TRANSPORTATION

On or before January 15, 2013, the secretary of natural resources (ANR) and the secretary of transportation (AOT) shall jointly report to the house committee on ways and means and the senate committee on finance with a recommendation as to whether or not agency of natural resources fees and agency of transportation fees should be adjusted so that air pollution fees paid to ANR proportionally reflect the contribution of ANR permittees to state air pollution and so that air-pollution-related fees paid to AOT proportionally reflect the contribution of AOT licensees and permittees to state air pollution. If making adjustments to ANR and AOT fees is recommended for this purpose, the report shall recommend which fees should be adjusted and by what amount.

and by renumbering the sections to be numerically correct