

13: 1D-9.1

LEGISLATIVE HISTORY CHECKLIST  
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(Environmental  
program fees)

NJSA: 13:1D-9.1

LAWS OF: 1991 CHAPTER: 427

BILL NO: A4523

SPONSOR(S) Doria and others

DATE INTRODUCED: March 4, 1991

COMMITTEE: ASSEMBLY: Energy and Environment  
SENATE: Land Use

AMENDED DURING PASSAGE: Yes Amendments during passage denoted by  
asterisks

DATE OF PASSAGE: ASSEMBLY: June 20, 1991  
SENATE: January 6, 1992

DATE OF APPROVAL: January 17, 1992

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: Yes

FISCAL NOTE: Yes

VETO MESSAGE:

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

See newspaper clippings--attached

KBG/pp

[FIRST REPRINT]  
ASSEMBLY, No. 4523

STATE OF NEW JERSEY

INTRODUCED MARCH 4, 1991

By Assemblymen DORIA, MARTIN and  
Assemblywoman Cooper

1 AN ACT concerning environmental program fees, and  
2 supplementing Title 13 and Title 52 of the Revised Statutes.

3

4 BE IT ENACTED *by the Senate and General Assembly of the*  
5 *State of New Jersey:*

6 1. As used in this act:

7 "Department" means the Department of Environmental  
8 Protection <sup>1</sup>[;].<sup>1</sup>

9 "Fee" means any fee, assessment or other charge imposed by  
10 the department pursuant to any law, rule or regulation for  
11 licenses, permits <sup>1</sup>[,] or other approvals, or for<sup>1</sup> regulatory  
12 actions <sup>1</sup>[,]<sup>1</sup> or <sup>1</sup>[other]<sup>1</sup> services performed or provided by the  
13 department <sup>1</sup>[, and shall include, but need not be limited to, fees  
14 imposed pursuant to: the "Water Pollution Control Act,"  
15 P.L.1977, c.74 (C.58:10A-1 et seq.), the "Air Pollution Control  
16 Act (1954)," P.L.1954, c.212 (C.26:2C-1 et seq.); the "Solid Waste  
17 Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.); the  
18 "Environmental Cleanup Responsibility Act," P.L.1983, c.330  
19 (C.13:1L-1 et seq.); the "Toxic Catastrophe Prevention Act,"  
20 P.L.1985, c.403 (C.13:1K-19 et seq.); the "Coastal Area Facility  
21 Review Act," P.L.1973, c.185 (C.13:19-1 et seq.); "The Wetlands  
22 Act of 1970," P.L.1970, c.272 (C.13:9A-1 et seq.); the  
23 "Freshwater Wetlands Protection Act," P.L.1987, c.156  
24 (C.13:9B-1 et seq.); the "Pesticide Control Act of 1971,"  
25 P.L.1971, c.176 (C.13:1F-1 et seq.); the "Worker and Community  
26 Right To Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.); the  
27 "Comprehensive Regulated Medical Waste Management Act,"  
28 P.L.1989, c.34 (C.13:1E-48.1 et seq.); P.L.1986, c.106  
29 (C.58:10A-21 et seq.); and all fees for licenses and permits  
30 imposed by the Division of Fish, Game and Wildlife pursuant to  
31 Title 23 of the Revised Statutes; and] pursuant to federal or State  
32 law.<sup>1</sup>

33 "Program" means any regulatory or other activity by the  
34 department, required or permitted by law, for which the  
35 department imposes a fee.

36 <sup>1</sup>"Program costs or costs" shall mean all direct and indirect  
37 costs incurred by the department in implementing a program for  
38 which a fee is assessed and collected.<sup>1</sup>

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the  
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Assembly AEE committee amendments adopted June 10, 1991.

- 1       2. <sup>1</sup>[a.]<sup>1</sup> On or before December 31, <sup>1</sup>[1990] 1991<sup>1</sup> and  
2 December 31 of each year thereafter, the department shall  
3 submit to the Governor, the Legislature, and the State Auditor a  
4 written report setting forth information concerning the  
5 imposition, collection and expenditure of fees imposed by the  
6 department. The report shall contain a section setting forth the  
7 following information:
- 8       <sup>1</sup>[b.] a.<sup>1</sup> A list of the fees imposed or assessed, by program,  
9 during the <sup>1</sup>[previous] preceding<sup>1</sup> fiscal year, and the statutory or  
10 regulatory authority for each;
- 11       <sup>1</sup>[c.] b.<sup>1</sup> An explanation of the methodology used to calculate  
12 the fees for each specific program;
- 13       <sup>1</sup>[d.] c.<sup>1</sup> The total amount of fees imposed, by specific  
14 program where appropriate, during the <sup>1</sup>[previous] preceding<sup>1</sup>  
15 fiscal year;
- 16       <sup>1</sup>[e.] d.<sup>1</sup> The total amount of fees collected, by program where  
17 appropriate, and the total amount of all fees collected for all  
18 programs during the <sup>1</sup>[previous] preceding<sup>1</sup> fiscal year, and all  
19 fees reappropriated for the <sup>1</sup>[previous] preceding<sup>1</sup> fiscal year  
20 from the next <sup>1</sup>[preceeding] preceding<sup>1</sup> fiscal year;
- 21       <sup>1</sup>[f.] e.<sup>1</sup> The total amount of fees expended for each program  
22 and the grand total expended during the <sup>1</sup>[previous] preceding<sup>1</sup>  
23 fiscal year;
- 24       <sup>1</sup>[g.] f.<sup>1</sup> The percentage of each program listed according to  
25 this section which is funded by fees, appropriations from the  
26 General Fund, appropriations of bond revenues, federal funds, and  
27 other sources<sup>1</sup>[.];<sup>1</sup>
- 28       <sup>1</sup>[h.] g.<sup>1</sup> Estimates of the total amount of fees, by program  
29 where appropriate, anticipated to be imposed, collected,  
30 expended and carried forward during the current fiscal year and  
31 the next fiscal year;
- 32       <sup>1</sup>[i.] h.<sup>1</sup> The number of <sup>1</sup>[permits or],<sup>1</sup> licenses <sup>1</sup>, permits or  
33 other approvals<sup>1</sup> applied for and issued pursuant to each program;
- 34       <sup>1</sup>[j.] i.<sup>1</sup> The number of personnel, by program, whose positions  
35 are funded by fees, and the percentage of the total personnel  
36 employed in each such program which this number represents;
- 37       <sup>1</sup>[k.] j.<sup>1</sup> The number of personnel, by program and funding  
38 source, funded by other revenue sources;
- 39       <sup>1</sup>[l.] k.<sup>1</sup> The number and percentage of personnel throughout  
40 the department whose positions are funded, wholly or in part, by  
41 fees;
- 42       <sup>1</sup>[m.] l.<sup>1</sup> The percentage of all departmental revenues and  
43 expenditures represented by fees for the appropriate fiscal year;  
44 <sup>1</sup>[and
- 45       n.] m. The total amount of all fines or other penalties  
46 assessed, and the amounts collected;
- 47       n. The total amount, by program, of all fines or other penalties  
48 assessed by the department, and the amounts collected, including  
49 environmental fines or other penalties collected on behalf of the  
50 department, and their disposition; and

1     o.<sup>1</sup> For each fiscal year following the date on which the  
2 Environmental Program Fee Fund is created pursuant to section 3  
3 of this act, the total amounts of transfers to and from each  
4 subaccount.

5     3. Notwithstanding any law, rule or regulation to the contrary,  
6 and beginning with each <sup>1</sup>State<sup>1</sup> fiscal year commencing on and  
7 after July 1 next following the effective date of this act, there  
8 shall be established in the department a non-lapsing revolving  
9 fund to be known as the "Environmental Program Fee Fund,"  
10 hereinafter referred to as "the fund." The fund shall contain a  
11 separate subaccount for fees imposed for each specific program.  
12 All fees collected by the department shall be deposited in the  
13 appropriate subaccount. The fee revenues deposited in each  
14 subaccount shall be appropriated <sup>1</sup>and used<sup>1</sup> only for the  
15 <sup>1</sup>[implementation] costs<sup>1</sup> of the program for which the fees were  
16 imposed; provided, however, that if the report required to be  
17 prepared by the department pursuant to section 2 of this act is  
18 not received by the Legislature by December 31 of any fiscal  
19 year, <sup>1</sup>[the] all unobligated<sup>1</sup> revenues in each subaccount in the  
20 fund, for which a report has not been received by the Legislature,  
21 <sup>1</sup>[shall revert to the General Fund and],<sup>1</sup> may not be used to  
22 support the designated program <sup>1</sup>[without specific appropriation  
23 by law] until such time as the report on the subaccount or  
24 subaccounts has been received by the Legislature. An additional  
25 appropriation shall not be required in order for the department to  
26 expend monies from a subaccount for which a report is received  
27 by the Legislature after December 31<sup>1</sup>.

28     4. The State Auditor shall, as part of his responsibility under  
29 R.S.52:24-4, conduct a post-audit of each account in the  
30 department for which fees accrue, and shall issue a special report  
31 each year on such fees and fee accounts to the Governor and the  
32 Legislature. In conducting the post-audit, the State Auditor shall  
33 use the report required to be prepared by the department  
34 pursuant to section 2 of this act, and may require the department  
35 to supply such additional documents as are necessary and  
36 pertinent to the post-audit. Notwithstanding the provisions of  
37 any law, rule or regulation to the contrary, the reports shall be  
38 due on or before March 1 of <sup>1</sup>[1991] 1992<sup>1</sup> and March 1 of each  
39 succeeding year. Each annual report shall include, but not be  
40 limited to, the following information and analysis on fees or fee  
41 subaccounts, as appropriate, for the previous fiscal year:

42     a. The extent to which the calculation of each fee conforms to  
43 the requirements, if any, of the statute <sup>1</sup>[authorizing or requiring  
44 the imposition of the fee; or, in the case of a fee imposed  
45 pursuant to rules and regulations adopted by the department  
46 pursuant to law, the extent to which the calculation of each fee  
47 conforms to the requirements, if any, of the rule or regulation] or  
48 rule or regulation authorizing or<sup>1</sup> imposing the fee;

49     b. The extent to which the method of calculating each fee  
50 reflects the cost of the regulation, service or other activity for

1 which it is imposed;

2 c. The extent to which revenues accruing to the department  
3 from each fee are expended for the regulation, service or other  
4 activity for which it is imposed;

5 d. Surpluses in each fee account or subaccount, as the case  
6 may be, of revenue from fees, expressed both as a dollar amount  
7 and as a percentage of the amount imposed and collected during  
8 the appropriate fiscal year; and

9 e. Transfers of funds involving fee revenues during the  
10 appropriate fiscal year.

11 5. This act shall take effect immediately.

12

13

14

ENVIRONMENT

15

16 Requires reporting, accounting, and auditing of environmental  
17 program fees.

1 section 2 of this act is not received by the Legislature by  
2 December 31 of any fiscal year, the revenues in each subaccount  
3 in the fund, for which a report has not been received by the  
4 Legislature, shall revert to the General Fund and may not be used  
5 to support the designated program without specific appropriation  
6 by law.

7 4. The State Auditor shall, as part of his responsibility under  
8 R.S.52:24-4, conduct a post-audit of each account in the  
9 department for which fees accrue, and shall issue a special report  
10 each year on such fees and fee accounts to the Governor and the  
11 Legislature. In conducting the post-audit, the State Auditor shall  
12 use the report required to be prepared by the department  
13 pursuant to section 2 of this act, and may require the department  
14 to supply such additional documents as are necessary and  
15 pertinent to the post-audit. Notwithstanding the provisions of  
16 any law, rule or regulation to the contrary, the reports shall be  
17 due on or before March 1 of 1991 and March 1 of each succeeding  
18 year. Each annual report shall include, but not be limited to, the  
19 following information and analysis on fees or fee subaccounts, as  
20 appropriate, for the previous fiscal year:

21 a. The extent to which the calculation of each fee conforms to  
22 the requirements, if any, of the statute authorizing or requiring  
23 the imposition of the fee; or, in the case of a fee imposed  
24 pursuant to rules and regulations adopted by the department  
25 pursuant to law, the extent to which the calculation of each fee  
26 conforms to the requirements, if any, of the rule or regulation  
27 imposing the fee;

28 b. The extent to which the method of calculating each fee  
29 reflects the cost of the regulation, service or other activity for  
30 which it is imposed;

31 c. The extent to which revenues accruing to the department  
32 from each fee are expended for the regulation, service or other  
33 activity for which it is imposed;

34 d. Surpluses in each fee account or subaccount, as the case  
35 may be, of revenue from fees, expressed both as a dollar amount  
36 and as a percentage of the amount imposed and collected during  
37 the appropriate fiscal year; and

38 e. Transfers of funds involving fee revenues during the  
39 appropriate fiscal year.

40 5. This act shall take effect immediately.

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42

#### 43 STATEMENT

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45 This bill would require the Department of Environmental  
46 Protection (DEP) to annually prepare and submit to the Governor,  
47 the Legislature, and the state auditor a report detailing the  
48 collection and expenditure of all fees imposed pursuant to law,

1 rule or regulation, including the following environmental  
2 regulatory programs: air pollution control, water pollution  
3 control, solid and hazardous waste management, ECRA, Toxic  
4 Catastrophe Prevention, coastal protection, freshwater wetlands  
5 protection, pesticide regulation, Worker and Community Right To  
6 Know, medical waste, underground storage tank control and fish,  
7 game and wildlife. In addition, this bill would establish an  
8 "Environmental Program Fee Fund" in the DEP, which would  
9 contain a subaccount for each category of fee imposed for to  
10 each appropriate program. All fees collected would be deposited  
11 in the corresponding subaccounts, and would be appropriated only  
12 for the implementation of the program for which the fees were  
13 imposed. Funds in each program account would be appropriated  
14 only if the report indicating the amount in each is submitted to  
15 the Governor, the Legislature and the State Auditor. Currently it  
16 is extremely difficult to compile comprehensive and meaningful  
17 information concerning fee-based regulatory programs, a  
18 difficulty which the reporting and accounting provisions of this  
19 bill are designed to remedy.

20 The bill also specifies the duties and responsibilities of the  
21 State Auditor in conducting post-audits of the fee accounts in  
22 DEP.

23  
24

#### 25 ENVIRONMENT

26

27 Requires reporting, and accounting and auditing of environmental  
28 program fees.

ASSEMBLY ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 4523**

with committee amendments

**STATE OF NEW JERSEY**

JUNE 10, 1991

Assembly Bill No. 4523, with committee amendments, is reported favorably by the Assembly Energy and Environment Committee.

This bill requires the Department of Environmental Protection (DEP) to prepare and submit to the Governor, the Legislature, and the State Auditor an annual report detailing the collection and expenditure of all fees assessed and collected pursuant to law, or rules or regulations adopted pursuant thereto. In addition, the bill establishes an "Environmental Program Fee Fund" in the DEP, which would comprise a number of permit program subaccounts. All program fees collected would be deposited in the corresponding subaccount for that program, and would be appropriated and used only for the implementation of the program for which the fees were imposed. Funds in the program subaccount would be expended only if a report thereon is submitted to the Legislature not later than December 31 of each year. If the annual consolidated report, or a report on any single fund is not received by the Legislature within the allotted time, all monies in such account or accounts shall be frozen until the necessary report or reports are received by the Legislature.

The bill also specifies the duties and responsibilities of the State Auditor in conducting post-audits of the fee accounts in DEP.

Currently, it is extremely difficult to obtain meaningful information on fee-based regulatory programs, a difficulty which the reporting and accounting provisions of this bill are designed to remedy.

The committee amendments delete the requirement that monies in any subaccount for which no report has been received revert to the General Fund; instead, monies in such subaccounts will be frozen until the report has been filed with the Legislature. The amendments also:

(1) require the reporting of all fines and other penalties assessed and collected by the department, and the disposition of all such monies collected;

(2) make clear that monies in a subaccount shall be used to meet any of the costs, direct or indirect, of the program for which program fees are collected.

SENATE LAND USE MANAGEMENT  
AND REGIONAL AFFAIRS COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY, No. 4523

STATE OF NEW JERSEY

DATED: DECEMBER 12, 1991

The Senate Land Use Management and Regional Affairs Committee favorably reports Assembly Bill No. 4523 [1R].

Assembly Bill No. 4523 1R requires the Department of Environmental Protection (DEP) to prepare and submit to the Governor, the Legislature, and the State Auditor an annual report detailing the collection and expenditure of all fees assessed and collected pursuant to law, or rules or regulations adopted pursuant thereto. In addition, the bill establishes an "Environmental Program Fee Fund" in the DEP, which would comprise a number of permit program subaccounts. All program fees collected would be deposited in the corresponding subaccount for that program, and would be appropriated and used only for the implementation of the program for which the fees were imposed. Funds in the program subaccount would be expended only if a report thereon is submitted to the Legislature not later than December 31 of each year. If the annual consolidated report, or a report on any single fund is not received by the Legislature within the allotted time, all monies in such account or accounts shall be frozen until the necessary report or reports are received by the Legislature.

The bill also specifies the duties and responsibilities of the State Auditor in conducting post-audits of the fee accounts in DEP.

Currently, it is extremely difficult to obtain meaningful information on fee-based regulatory programs, a difficulty which the reporting and accounting provisions of this bill are designed to remedy.

Assembly Bill No. 4523 [1R] is identical to Senate Bill No. 3637.

LEGISLATIVE FISCAL ESTIMATE TO

[FIRST REPRINT]

ASSEMBLY, No. 4523

STATE OF NEW JERSEY

DATED: July 11, 1991

Assembly Bill No. 4523 (1R) of 1991 requires the Department of Environmental Protection (DEP) to prepare and submit to the Governor, the Legislature, and the State Auditor an annual report detailing the collection and expenditure of all fees and fines assessed and collected pursuant to law, or rules or regulations adopted pursuant thereto. In addition, the bill establishes an "Environmental Program Fee Fund" in the DEP, which would comprise a number of permit program subaccounts. All program fees collected would be deposited in the corresponding subaccount for that program, and would be appropriated and used only for the implementation of the program for which the fees were imposed. If the annual consolidated report, or a report on any single fund is not received by the Legislature within the allotted time, all monies in such account or accounts would be frozen until the necessary report or reports are received by the Legislature. The bill also specifies the duties and responsibilities of the State Auditor in conducting post-audits of the fee accounts in DEP.

The Office of Legislative Services estimates that the bill will have no fiscal impact because the department and the State Auditor have sufficient staff and resources to achieve the bill's objectives.

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.