

By the Committee on Natural Resources and Senators Williams and Kirkpatrick

312-1869-98

1                                   A bill to be entitled  
2           An act relating to air pollution control  
3           revenues; amending s. 215.22, F.S.; exempting  
4           the Air Pollution Control Trust Fund from a  
5           surcharge; amending s. 403.0872, F.S.;  
6           providing for adjustments in the major  
7           stationary source annual air-operation permit  
8           license fees; deleting obsolete provisions  
9           relating to a study that was conducted;  
10          changing the date for an audit of the major  
11          stationary source air-operation permit program;  
12          providing an effective date.

14 Be It Enacted by the Legislature of the State of Florida:

16           Section 1. Paragraph (t) is added to subsection (1) of  
17 section 215.22, Florida Statutes, to read:

18           215.22 Certain income and certain trust funds  
19 exempt.--

20           (1) The following income of a revenue nature or the  
21 following trust funds shall be exempt from the deduction  
22 required by s. 215.20(1):

23           (t) The Air Pollution Control Trust Fund.

24           Section 2. Subsection (11) of section 403.0872,  
25 Florida Statutes, is amended to read:

26           403.0872 Operation permits for major sources of air  
27 pollution; annual operation license fee.--Provided that  
28 program approval pursuant to 42 U.S.C. s. 7661a has been  
29 received from the United States Environmental Protection  
30 Agency, beginning January 2, 1995, each major source of air  
31 pollution, including electrical power plants certified under

1 s. 403.511, must obtain from the department an operation  
2 permit for a major source of air pollution under this section,  
3 which is the only department operation permit for a major  
4 source of air pollution required for such source. Operation  
5 permits for major sources of air pollution, except general  
6 permits issued pursuant to s. 403.814, must be issued in  
7 accordance with the following procedures and in accordance  
8 with chapter 120; however, to the extent that chapter 120 is  
9 inconsistent with the provisions of this section, the  
10 procedures contained in this section prevail:

11 (11) Commencing in 1993, each major source of air  
12 pollution permitted to operate in this state must pay between  
13 January 15 and March 1 of each year, upon written notice from  
14 the department, an annual operation license fee in an amount  
15 determined by department rule. The annual operation license  
16 fee shall be terminated immediately in the event the United  
17 States Environmental Protection Agency imposes annual fees  
18 solely to implement and administer the major source  
19 air-operation permit program in Florida under 40 C.F.R. s.  
20 70.10(d).

21 (a) The annual fee must be assessed based upon the  
22 source's previous year's emissions and must be calculated by  
23 multiplying the applicable annual operation license fee factor  
24 times the tons of each regulated air pollutant (except carbon  
25 monoxide) allowed to be emitted per hour by specific condition  
26 of the source's most recent construction or operation permit,  
27 times the annual hours of operation allowed by permit  
28 condition; provided, however, that:

29 1. ~~For 1993 and 1994, the license fee factor is \$10.~~  
30 ~~For 1995, the license fee factor is \$25. In succeeding years,~~  
31 ~~The license fee factor is \$25 or another amount determined by~~

1 department rule which ensures that the revenue provided by  
2 each year's operation license fees is sufficient to cover all  
3 reasonable direct and indirect costs of the major stationary  
4 source air-operation permit program established by this  
5 section. The license fee factor may be adjusted by rule only  
6 after an audit required under paragraph (c), and increased  
7 ~~beyond \$25~~ only if the secretary of the department  
8 affirmatively finds that a shortage or surplus of revenue for  
9 support of the major stationary source air-operation permit  
10 program will occur in the absence of a fee factor adjustment.  
11 Only expenditures made or funded by the department which meet  
12 the requirements under subparagraph (a)10. and paragraph (b)  
13 may be used in calculating whether there is a shortage of  
14 revenue. The annual operation license fees collected by the  
15 department must be used solely to cover the costs of meeting  
16 the functions of the permitting program as described in  
17 subparagraph (a)10. and paragraph (b).The annual license fee  
18 factor may never exceed \$35. ~~The department shall retain a~~  
19 ~~nationally recognized accounting firm to conduct a study to~~  
20 ~~determine the reasonable revenue requirements necessary to~~  
21 ~~support the development and administration of the major source~~  
22 ~~air-operation permit program as prescribed in paragraph (b).~~  
23 ~~The results of that determination must be considered in~~  
24 ~~assessing whether a \$25-per-ton fee factor is sufficient to~~  
25 ~~adequately fund the major source air-operation permit program.~~  
26 ~~The results of the study must be presented to the Governor,~~  
27 ~~the President of the Senate, the Speaker of the House of~~  
28 ~~Representatives, and the Public Service Commission, including~~  
29 ~~the Public Counsel's Office, by no later than October 31,~~  
30 ~~1994.~~  
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1           2. For any source that operates for fewer hours during  
2 the calendar year than allowed under its permit, the annual  
3 fee calculation must be based upon actual hours of operation  
4 rather than allowable hours if the owner or operator of the  
5 source documents the source's actual hours of operation for  
6 the calendar year. For any source that has an emissions limit  
7 that is dependent upon the type of fuel burned, the annual fee  
8 calculation must be based on the emissions limit applicable  
9 during actual hours of operation.

10           3. For any source whose allowable emission limitation  
11 is specified by permit per units of material input or heat  
12 input or product output, the applicable input or production  
13 amount may be used to calculate the allowable emissions if the  
14 owner or operator of the source documents the actual input or  
15 production amount. If the input or production amount is not  
16 documented, the maximum allowable input or production amount  
17 specified in the permit must be used to calculate the  
18 allowable emissions.

19           4. For any new source that does not receive its first  
20 operation permit until after the beginning of a calendar year,  
21 the annual fee for the year must be reduced pro rata to  
22 reflect the period during which the source was not allowed to  
23 operate.

24           5. For any source that emits less of any regulated air  
25 pollutant than allowed by permit condition, the annual fee  
26 calculation for such pollutant must be based upon actual  
27 emissions rather than allowable emissions if the owner or  
28 operator documents the source's actual emissions by means of  
29 data from a department-approved certified continuous emissions  
30 monitor or from an emissions monitoring method which has been  
31 approved by the United States Environmental Protection Agency

1 under the regulations implementing 42 U.S.C. ss. 7651 et seq.,  
2 or from a method approved by the department for purposes of  
3 this section.

4           6. The amount of each regulated air pollutant in  
5 excess of 4,000 tons per year allowed to be emitted by any  
6 source, or group of sources belonging to the same Major Group  
7 as described in the Standard Industrial Classification Manual,  
8 1987, may not be included in the calculation of the fee. Any  
9 source, or group of sources, which does not emit any regulated  
10 air pollutant in excess of 4,000 tons per year, is allowed a  
11 one-time credit not to exceed 25 percent of the first annual  
12 licensing fee for the prorated portion of existing  
13 air-operation permit application fees remaining upon  
14 commencement of the annual licensing fees.

15           7. If the department has not received the fee by  
16 February 15 of the calendar year, the permittee must be sent a  
17 written warning of the consequences for failing to pay the fee  
18 by March 1. If the fee is not postmarked by March 1 of the  
19 calendar year, commencing with calendar year 1997, the  
20 department shall impose, in addition to the fee, a penalty of  
21 50 percent of the amount of the fee, plus interest on such  
22 amount computed in accordance with s. 220.807. The department  
23 may not impose such penalty or interest on any amount  
24 underpaid, provided that the permittee has timely remitted  
25 payment of at least 90 percent of the amount determined to be  
26 due and remits full payment within 60 days after receipt of  
27 notice of the amount underpaid. The department may waive the  
28 collection of underpayment and shall not be required to refund  
29 overpayment of the fee, if the amount due is less than 1  
30 percent of the fee, up to \$50. The department may revoke any  
31 major air pollution source operation permit if it finds that

1 the permitholder has failed to timely pay any required annual  
2 operation license fee, penalty, or interest.

3 8. During the years 1993 through 1999, inclusive, no  
4 fee shall be required to be paid under this section with  
5 respect to emissions from any unit which is an affected unit  
6 under 42 U.S.C. s. 7651c.

7 9. Notwithstanding the computational provisions of  
8 this subsection, the annual operation license fee for any  
9 source subject to this section shall not be less than \$250,  
10 except that the annual operation license fee for sources  
11 permitted solely through general permits issued under s.  
12 403.814 shall not exceed \$50 per year.

13 10. Notwithstanding the provisions of s.  
14 403.087(6)(a)4.a., authorizing air pollution construction  
15 permit fees, the department may not require such fees for  
16 changes or additions to a major source of air pollution  
17 permitted pursuant to this section, unless the activity  
18 triggers permitting requirements under Title I, Part C or Part  
19 D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-7514a.  
20 Costs to issue and administer such permits shall be considered  
21 direct and indirect costs of the major stationary source  
22 air-operation permit program under s. 403.0873. The department  
23 shall, however, require fees pursuant to the provisions of s.  
24 403.087(6)(a)4.a. for the construction of a new major source  
25 of air pollution that will be subject to the permitting  
26 requirements of this section once constructed and for  
27 activities triggering permitting requirements under Title I,  
28 Part C or Part D, of the federal Clean Air Act, 42 U.S.C. ss.  
29 7470-7514a.

30 (b) Annual operation license fees collected by the  
31 department must be sufficient to cover all reasonable direct

1 and indirect costs required to develop and administer the  
2 major stationary source air-operation permit program, which  
3 shall consist of the following elements to the extent that  
4 they are reasonably related to the implementation of the  
5 ~~regulation of major stationary source air-operation permit~~  
6 ~~program pollution sources~~, in accordance with United States  
7 Environmental Protection Agency regulations and guidelines:

8 1. Reviewing and acting upon any application for such  
9 a permit.

10 2. Implementing and enforcing the terms and conditions  
11 of any such permit, excluding court costs or other costs  
12 associated with any enforcement action.

13 3. ~~Emissions and~~ Ambient air monitoring only to the  
14 extent that site-specific monitoring is necessary for the  
15 issuance of a major stationary source air permit or permits,  
16 as documented in the permit or permits.

17 4. Preparing ~~generally applicable~~ regulations or  
18 guidance only to the extent required for the implementation of  
19 the major stationary source air-operation permit program.

20 5. Modeling, analyses, ~~and demonstrations,~~ and  
21 site-specific emissions monitoring only to the extent required  
22 for the implementation of the major stationary source  
23 air-operation permit program.

24 6. Preparing inventories and tracking emissions only  
25 to the extent required for the implementation of the major  
26 stationary source air-operation permit program.

27 7. Implementing the Small Business Stationary Source  
28 Technical and Environmental Compliance Assistance Program.

29 8. Conducting or providing for the conduct of the  
30 required ~~The study conducted under subparagraph (a)1. and Any~~  
31 audits conducted under paragraph (c).

1           9. Site-specific emissions monitoring in conjunction  
2 with an applicable requirement of a major stationary source.

3           (c) An audit of the major stationary source  
4 air-operation permit program must not be commenced until  
5 January 1, 2002, and must be completed by January 1, 2003,  
6 ~~conducted 2 years after the United States Environmental~~  
7 ~~Protection Agency has given full approval of the program, or~~  
8 ~~by the end of 1996, whichever comes later,~~to ascertain  
9 whether the annual operation license fees collected by the  
10 department are sufficient and are used by the department and  
11 local programs solely to cover the support any reasonable  
12 direct and indirect costs as listed in subparagraph (a)10. and  
13 paragraph (b). In addition, the audit must evaluate the  
14 department's system for measuring program performance,  
15 efficiency, and accountability.A program audit must be  
16 performed every 5 years ~~biennially~~ after the first audit.

17           Section 3. This act shall take effect July 1, 1998.

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19           STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
20           COMMITTEE SUBSTITUTE FOR  
21           SB 1554

22           The committee substitute deletes certain obsolete language  
23 relating to a study that has already been conducted. Further  
24 restricts the use of the air-operation license fees for  
25 modeling, analyses, and demonstrations.  
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