

By Representative Smith

1 A bill to be entitled
2 An act relating to air pollution control;
3 amending s. 215.22, F.S.; exempting the Air
4 Pollution Control Trust Fund from the general
5 revenue service charge deduction; amending s.
6 403.0872, F.S., relating to operation permits
7 for major sources of air pollution; revising
8 provisions relating to calculation of the
9 annual operation license fee; providing for
10 adjustments to the license fee factor;
11 providing restrictions on calculating whether
12 there is a revenue shortage; restricting use of
13 annual operation license fees collected;
14 revising elements of the major stationary
15 source air-operation permit program for
16 purposes of establishing annual operation
17 license fees; revising program audit
18 requirements; providing an effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Paragraph (t) is added to subsection (1) of
23 section 215.22, Florida Statutes, to read:

24 215.22 Certain income and certain trust funds
25 exempt.--

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

29 (t) The Air Pollution Control Trust Fund.

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

1 403.0872 Operation permits for major sources of air
2 pollution; annual operation license fee.--Provided that
3 program approval pursuant to 42 U.S.C. s. 7661a has been
4 received from the United States Environmental Protection
5 Agency, beginning January 2, 1995, each major source of air
6 pollution, including electrical power plants certified under
7 s. 403.511, must obtain from the department an operation
8 permit for a major source of air pollution under this section,
9 which is the only department operation permit for a major
10 source of air pollution required for such source. Operation
11 permits for major sources of air pollution, except general
12 permits issued pursuant to s. 403.814, must be issued in
13 accordance with the following procedures and in accordance
14 with chapter 120; however, to the extent that chapter 120 is
15 inconsistent with the provisions of this section, the
16 procedures contained in this section prevail:

17 (11) Commencing in 1993, each major source of air
18 pollution permitted to operate in this state must pay between
19 January 15 and March 1 of each year, upon written notice from
20 the department, an annual operation license fee in an amount
21 determined by department rule. The annual operation license
22 fee shall be terminated immediately in the event the United
23 States Environmental Protection Agency imposes annual fees
24 solely to implement and administer the major source
25 air-operation permit program in Florida under 40 C.F.R. s.
26 70.10(d).

27 (a) The annual fee must be assessed based upon the
28 source's previous year's emissions and must be calculated by
29 multiplying the applicable annual operation license fee factor
30 times the tons of each regulated air pollutant (except carbon
31 monoxide) allowed to be emitted per hour by specific condition

1 of the source's most recent construction or operation permit,
2 times the annual hours of operation allowed by permit
3 condition; provided, however, that:
4 1. ~~For 1993 and 1994, the license fee factor is \$10.~~
5 ~~For 1995, The license fee factor is \$25. In succeeding years,~~
6 ~~the license fee factor is \$25 or another amount determined by~~
7 ~~department rule which ensures that the revenue provided by~~
8 ~~each year's operation license fees is sufficient to cover all~~
9 ~~reasonable direct and indirect costs of the major stationary~~
10 ~~source air-operation permit program established by this~~
11 ~~section.~~ The license fee factor may be adjusted by rule only
12 after an audit required under paragraph (c) and increased
13 beyond \$25 only if the secretary of the department
14 affirmatively finds that a shortage or surplus of revenue for
15 support of the major stationary source air-operation permit
16 program will occur in the absence of a fee factor adjustment.
17 Only expenditures made or funded by the department which meet
18 the requirements of subparagraph 10. and paragraph (b) may be
19 used in calculating whether there is a shortage of revenue.
20 The annual operation license fees collected by the department
21 shall be used solely to cover the costs of meeting the
22 functions of the permitting program as described in
23 subparagraph 10. and paragraph (b). The annual license fee
24 factor may never exceed \$35. ~~The department shall retain a~~
25 ~~nationally recognized accounting firm to conduct a study to~~
26 ~~determine the reasonable revenue requirements necessary to~~
27 ~~support the development and administration of the major source~~
28 ~~air-operation permit program as prescribed in paragraph (b).~~
29 ~~The results of that determination must be considered in~~
30 ~~assessing whether a \$25-per-ton fee factor is sufficient to~~
31 ~~adequately fund the major source air-operation permit program.~~

1 ~~The results of the study must be presented to the Governor,~~
2 ~~the President of the Senate, the Speaker of the House of~~
3 ~~Representatives, and the Public Service Commission, including~~
4 ~~the Public Counsel's Office, by no later than October 31,~~
5 ~~1994.~~

6 2. For any source that operates for fewer hours during
7 the calendar year than allowed under its permit, the annual
8 fee calculation must be based upon actual hours of operation
9 rather than allowable hours if the owner or operator of the
10 source documents the source's actual hours of operation for
11 the calendar year. For any source that has an emissions limit
12 that is dependent upon the type of fuel burned, the annual fee
13 calculation must be based on the emissions limit applicable
14 during actual hours of operation.

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

24 4. For any new source that does not receive its first
25 operation permit until after the beginning of a calendar year,
26 the annual fee for the year must be reduced pro rata to
27 reflect the period during which the source was not allowed to
28 operate.

29 5. For any source that emits less of any regulated air
30 pollutant than allowed by permit condition, the annual fee
31 calculation for such pollutant must be based upon actual

1 emissions rather than allowable emissions if the owner or
2 operator documents the source's actual emissions by means of
3 data from a department-approved certified continuous emissions
4 monitor or from an emissions monitoring method which has been
5 approved by the United States Environmental Protection Agency
6 under the regulations implementing 42 U.S.C. ss. 7651 et seq.,
7 or from a method approved by the department for purposes of
8 this section.

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

20 7. If the department has not received the fee by
21 February 15 of the calendar year, the permittee must be sent a
22 written warning of the consequences for failing to pay the fee
23 by March 1. If the fee is not postmarked by March 1 of the
24 calendar year, commencing with calendar year 1997, the
25 department shall impose, in addition to the fee, a penalty of
26 50 percent of the amount of the fee, plus interest on such
27 amount computed in accordance with s. 220.807. The department
28 may not impose such penalty or interest on any amount
29 underpaid, provided that the permittee has timely remitted
30 payment of at least 90 percent of the amount determined to be
31 due and remits full payment within 60 days after receipt of

1 notice of the amount underpaid. The department may waive the
2 collection of underpayment and shall not be required to refund
3 overpayment of the fee, if the amount due is less than 1
4 percent of the fee, up to \$50. The department may revoke any
5 major air pollution source operation permit if it finds that
6 the permitholder has failed to timely pay any required annual
7 operation license fee, penalty, or interest.

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

12 9. Notwithstanding the computational provisions of
13 this subsection, the annual operation license fee for any
14 source subject to this section shall not be less than \$250,
15 except that the annual operation license fee for sources
16 permitted solely through general permits issued under s.
17 403.814 shall not exceed \$50 per year.

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

1 activities triggering permitting requirements under Title I,
2 Part C or Part D, of the federal Clean Air Act, 42 U.S.C. ss.
3 7470-7514a.

4 (b) Annual operation license fees collected by the
5 department must be sufficient to cover all reasonable direct
6 and indirect costs required to develop and administer the
7 major stationary source air-operation permit program, which
8 shall consist of the following elements to the extent that
9 they are reasonably related to the implementation of the
10 regulation of major stationary source air-operation permit
11 program air pollution sources, in accordance with United
12 States Environmental Protection Agency regulations and
13 guidelines:

14 1. Reviewing and acting upon any application for such
15 a permit.

16 2. Implementing and enforcing the terms and conditions
17 of any such permit, excluding court costs or other costs
18 associated with any enforcement action.

19 3. ~~Emissions and~~ Ambient air monitoring, only to the
20 extent site-specific monitoring is necessary for the issuance
21 of any major stationary source air-operation permit or
22 permits, as documented in the permit or permits.

23 4. Preparing ~~generally applicable~~ regulations or
24 guidance, only to the extent required for the implementation
25 of the major stationary source air-operation permit program.

26 5. Modeling, analyses, and demonstrations, only to the
27 extent required for the implementation of the major stationary
28 source air-operation permit program.

29 6. Preparing inventories and tracking emissions, only
30 to the extent required for the implementation of the major
31 stationary source air-operation permit program.

1 7. Implementing the Small Business Stationary Source
2 Technical and Environmental Compliance Assistance Program.

3 8. Conducting or providing for the conduct of the
4 ~~study conducted under subparagraph (a)1. and any~~ audits
5 required conducted under paragraph (c).

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

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

22 Section 3. This act shall take effect July 1 of the
23 year in which enacted.

24
25
26
27
28
29
30
31

HOUSE SUMMARY

Exempts the Air Pollution Control Trust Fund from the general revenue service charge deduction. Revises provisions relating to calculation of the annual operation license fee assessed against holders of operation permits for major sources of air pollution. Provides for adjustments to the license fee factor and restrictions on calculating whether there is a revenue shortage. Restricts use of annual operation license fees collected. Revises elements of the major stationary source air-operation permit program for purposes of establishing annual operation license fees, and revises program audit requirements. See bill for details.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31