

---

HOUSE BILL 1851

---

State of Washington                      52nd Legislature                      1991 Regular Session

By Representatives Wang and Holland; by request of Department of Ecology and Office of Financial Management.

Read first time February 12, 1991. Referred to Committee on Revenue.

1            AN ACT Relating to the department of ecology's fees and penalties  
2 concerning water rights; amending RCW 90.03.470, 90.03.471, and  
3 90.03.600; adding a new section to chapter 90.03 RCW; creating a new  
4 section; and prescribing penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6            NEW SECTION.    **Sec. 1.**            The purposes of this act are to  
7 establish fees for water rights and other related fees that reflect the  
8 cost of administering the water rights program of the department of  
9 ecology and to increase the maximum civil penalties for noncompliance  
10 with state water resources laws and rules.

11            **Sec. 2.**    RCW 90.03.470 and 1987 c 109 s 98 are each amended to read  
12 as follows:

13            (1) The following fees shall be collected by the department in  
14 advance:

1       (~~(1)~~) (a) For the examination of an application for a permit to  
2 appropriate water or on application to change a point of diversion(~~(7)~~)  
3 or withdrawal, purpose or place of use, a minimum of ten dollars(~~(7)~~)  
4 to be paid with the application. For each second foot between one and  
5 five hundred second feet, two dollars per second foot; for each second  
6 foot between five hundred and two thousand second feet, fifty cents per  
7 second foot; and for each second foot in excess thereof, twenty cents  
8 per second foot. For each acre foot of storage up to and including one  
9 hundred thousand acre feet, one cent per acre foot, and for each acre  
10 foot in excess thereof, one-fifth cent per acre foot. The ten dollar  
11 fee payable with the application shall be a credit to that amount  
12 whenever the fee for direct diversion or storage totals more than ten  
13 dollars under the above schedule and in such case the further fee due  
14 shall be the total computed amount less ten dollars.

15       Within five days from receipt of an application the department  
16 shall notify the applicant by registered mail of any additional fees  
17 due under the above schedule and any additional fees shall be paid to  
18 and received by the department within thirty days from the date of  
19 filing the application, or the application shall be rejected.

20       (~~(2)~~) (b) For filing and recording a permit to appropriate water  
21 for irrigation purposes, forty cents per acre for each acre to be  
22 irrigated up to and including one hundred acres, and twenty cents per  
23 acre for each acre in excess of one hundred acres up to and including  
24 one thousand acres, and ten cents for each acre in excess of one  
25 thousand acres; and also twenty cents for each theoretical horsepower  
26 up to and including one thousand horsepower, and four cents for each  
27 theoretical horsepower in excess of one thousand horsepower, but in no  
28 instance shall the minimum fee for filing and recording a permit to  
29 appropriate water be less than five dollars. For all other beneficial  
30 purposes the fee shall be twice the amount of the examination fee

1 except that for individual household and domestic use, which may  
2 include water for irrigation of a family garden, the fee shall be five  
3 dollars.

4 ~~((3))~~ (c) For filing and recording any other water right  
5 instrument, four dollars for the first hundred words and forty cents  
6 for each additional hundred words or fraction thereof.

7 ~~((4))~~ (d) For making a copy of any document recorded or filed in  
8 his office, forty cents for each hundred words or fraction thereof, but  
9 when the amount exceeds twenty dollars, only the actual cost in excess  
10 of that amount shall be charged.

11 ~~((5))~~ (e) For certifying to copies, documents, records or maps,  
12 two dollars for each certification.

13 ~~((6))~~ (f) For blueprint copies of a map or drawing, or, for such  
14 other work of a similar nature as may be required of the department, at  
15 actual cost of the work.

16 ~~((7))~~ (g) For granting each extension of time for beginning  
17 construction work under a permit to appropriate water, an amount equal  
18 to one-half of the filing and recording fee, except that the minimum  
19 fee shall be not less than five dollars for each year that an extension  
20 is granted, and for granting an extension of time for completion of  
21 construction work or for completing application of water to a  
22 beneficial use, five dollars for each year that an extension is  
23 granted.

24 ~~((8))~~ (h) For the inspection of any hydraulic works to insure  
25 safety to life and property, the actual cost of the inspection,  
26 including the expense incident thereto.

27 ~~((9))~~ (i) For the examination of plans and specifications as to  
28 safety of controlling works for storage of ten acre feet or more of  
29 water, a minimum fee of ten dollars, or the actual cost.

1       (~~(10)~~) (j) For recording an assignment either of a permit to  
2 appropriate water or of an application for such a permit, a fee of five  
3 dollars.

4       (~~(11)~~) (k) For preparing and issuing all water right  
5 certificates, five dollars.

6       (~~(12)~~) (l) For filing and recording a protest against granting  
7 any application, two dollars.

8       (2) The fees established in this section shall be superseded by  
9 rules adopted by the department under section 3 of this act.

10       NEW SECTION. Sec. 3. A new section is added to chapter 90.03 RCW  
11 to read as follows:

12       (1) The department shall adopt rules, following the procedures of  
13 chapter 34.05 RCW, establishing a schedule of fees for performing and  
14 carrying out certain functions of the water resources program. The  
15 department shall collect the fees in advance from the applicant or  
16 person requesting or benefiting from the following actions:

17       (a) Accepting and examining an application for a permit to  
18 appropriate public water;

19       (b) Accepting and examining an application for change or transfer  
20 of a water right;

21       (c) Examining and preparing for the issuance of a water right  
22 permit or an authorization to change or transfer a water right;

23       (d) Preparing, filing, and recording certificates to appropriate  
24 water or other water rights instruments;

25       (e) Copying any recorded document;

26       (f) Certifying any copies, documents, records, or maps;

27       (g) Granting an extension of time for any phase of the construction  
28 schedule under an authorization to appropriate public water;

1 (h) Inspection of any hydraulic works to ensure safety to life and  
2 property;

3 (i) Examination of plans and specifications of dams, reservoirs, or  
4 other works for the storage of water;

5 (j) Recording of an assignment of either a permit to appropriate  
6 water or of an application for such a permit;

7 (k) Filing and recording a protest against granting any  
8 application; and

9 (l) Certification of adequate water supply under rules adopted by  
10 the department as required by RCW 19.27.097.

11 (2) The fees established under this section shall be based on  
12 recovering the actual cost to the department in acting upon  
13 applications or other requests. The department may classify water uses  
14 by type, quantity, and complexity and may compute its average costs in  
15 determining fees for applications, permits, and certificates of water  
16 right for each classification. The department shall periodically  
17 review the fees established under this section and shall revise them  
18 when necessary to assure the recovery of its costs.

19 (3) A surcharge of twenty-five percent shall be added to the normal  
20 application, permit, and certificate fees for applicants who have used  
21 public water without the prior approval of the department.

22 (4) The fees established under this section apply to all  
23 applications and requests for any pertinent actions pending before the  
24 water resources program of the department at the time the rules  
25 establishing the fees become effective under chapter 34.05 RCW. Any  
26 fee already paid for an application or other pertinent requested action  
27 shall be credited to the amount determined to be owed on the fees  
28 established by rule. The department shall notify by registered mail  
29 any person with an action pending before the department if that action  
30 is affected by increased fees. Any additional fees are payable within

1 sixty days of such notice. The department's notice shall include a  
2 statement that any person wishing to continue an application or other  
3 request due to an increased fee shall, within sixty days of the notice,  
4 request in writing that the department continue to proceed with the  
5 application or other request. Failure to respond within sixty days is  
6 grounds for automatic cancellation of the application or other request  
7 and forfeiture of the fees previously remitted.

8 **Sec. 4.** RCW 90.03.471 and 1987 c 109 s 99 are each amended to read  
9 as follows:

10 All fees, collections and revenues derived under RCW 90.03.470 (~~or~~  
11 ~~by virtue of RCW 90.03.180~~) and section 3 of this act, shall be used  
12 exclusively for the purpose of carrying out the work and performing the  
13 functions of the division of water resources of the department.

14 **Sec. 5.** RCW 90.03.600 and 1987 c 109 s 157 are each amended to  
15 read as follows:

16 (1) The power is granted to the department of ecology to levy civil  
17 penalties of up to (~~one hundred~~) five thousand dollars per day for  
18 violation of any of the provisions of this chapter and chapters 43.83B,  
19 90.22, and 90.44 RCW, and rules, permits, and similar documents and  
20 regulatory orders of the department of ecology adopted or issued  
21 pursuant to such chapters. The procedures of RCW 90.48.144 shall be  
22 applicable to all phases of the levying of a penalty as well as review  
23 and appeal of the same.

24 (2) The department shall adopt rules establishing criteria for the  
25 determination of appropriate penalty levels for various classes of  
26 violations. These criteria shall take into account the seriousness of  
27 a violation, including the threat posed to public health, damage or  
28 potential damage to public resources, damage or potential damage to the

1 property interests of other individuals, and the recurrence of the  
2 violation. Until these rules are in effect, the department shall be  
3 guided by these considerations in determining the amount of civil  
4 penalty to levy, but shall not levy a civil penalty provided for in  
5 this section in excess of one thousand dollars.