

2 **SHB 1236 - H AMD 000235 ADOPTED 03-16-93**

3 By Representatives Pruitt and Morton

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5 On page 1, strike everything after the enacting clause and insert
6 the following:

7 "NEW SECTION. **Sec. 1.** The legislature finds that a water right
8 confers significant economic benefits to the water right holder. The
9 fees associated with acquiring a water right have not changed
10 significantly since 1917. Water rights applicants pay less than two
11 percent of the costs of the administration of the water rights program.
12 The legislature finds that, since water rights are of significant
13 value, water rights applicants should contribute more to the cost of
14 administration of the water rights program.

15 The legislature also finds that an abrupt increase in water rights
16 fees could be disruptive to water rights holders and applicants. The
17 legislature further finds that water rights applicants have a right to
18 know that the water rights program is being administered efficiently
19 and that the fees charged for various services relate directly to the
20 cost of providing those services.

21 Therefore, the legislature creates a task force to review the water
22 rights program, to make recommendations for streamlining the
23 application process and increasing the overall efficiency and
24 accountability of the administration of the program, and to return to
25 the legislature with a proposal for a fee schedule where the fee levels
26 relate clearly to the cost of services provided.

27 **Sec. 2.** RCW 90.03.015 and 1987 c 109 s 65 are each amended to read
28 as follows:

29 As used in this chapter:

30 (1) "Department" means the department of ecology;

31 (2) "Director" means the director of ecology; (~~and~~)

32 (3) "Person" means any firm, association, water users' association,
33 corporation, irrigation district, or municipal corporation, as well as
34 an individual;

1 (4) "Reservoir" means any water stored for a beneficial use held
2 behind a dam or dike to a depth of ten feet or more at its deepest
3 point, or of ten or more acre-feet of water. A reservoir is also a
4 water holding impoundment adjacent to a stream channel when water will
5 be required to fill it, if the water in the holding area is of a depth
6 of ten feet or more at its deepest point or is of ten or more acre-
7 feet; and

8 (5) "Short-term water use" means an emergency use of water or a
9 nonrecurring temporary use of water for up to four months duration,
10 with a possible extension of not more than four additional months upon
11 approval by the department.

12 **Sec. 3.** RCW 90.03.470 and 1987 c 109 s 98 are each amended to read
13 as follows:

14 The following fees shall be collected by the department in advance:

15 (1) For the examination of an application for permit to appropriate
16 water or on application to change point of diversion, withdrawal,
17 purpose or place of use, a minimum of ten dollars, to be paid with the
18 application. For each second foot between one and five hundred second
19 feet, two dollars per second foot; for each second foot between five
20 hundred and two thousand second feet, fifty cents per second foot; and
21 for each second foot in excess thereof, twenty cents per second foot.
22 For each acre foot of storage up to and including one hundred thousand
23 acre feet, one cent per acre foot, and for each acre foot in excess
24 thereof, one-fifth cent per acre foot. The ten dollar fee payable with
25 the application shall be a credit to that amount whenever the fee for
26 direct diversion or storage totals more than ten dollars under the
27 above schedule and in such case the further fee due shall be the total
28 computed amount less ten dollars.

29 Within five days from receipt of an application the department
30 shall notify the applicant by registered mail of any additional fees
31 due under the above schedule and any additional fees shall be paid to
32 and received by the department within thirty days from the date of
33 filing the application, or the application shall be rejected.

34 (2) For filing and recording a permit to appropriate water for
35 irrigation purposes, forty cents per acre for each acre to be irrigated
36 up to and including one hundred acres, and twenty cents per acre for
37 each acre in excess of one hundred acres up to and including one
38 thousand acres, and ten cents for each acre in excess of one thousand

1 acres; and also twenty cents for each theoretical horsepower up to and
2 including one thousand horsepower, and four cents for each theoretical
3 horsepower in excess of one thousand horsepower, but in no instance
4 shall the minimum fee for filing and recording a permit to appropriate
5 water be less than five dollars. For all other beneficial purposes the
6 fee shall be twice the amount of the examination fee except that for
7 individual household and domestic use, which may include water for
8 irrigation of a family garden, the fee shall be five dollars.

9 (3) For filing and recording any other water right instrument, four
10 dollars for the first hundred words and forty cents for each additional
11 hundred words or fraction thereof.

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

16 (5) For certifying to copies, documents, records or maps, two
17 dollars for each certification.

18 (6) For blueprint copies of a map or drawing, or, for such other
19 work of a similar nature as may be required of the department, at
20 actual cost of the work.

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

28 (8) For the inspection of any hydraulic works to insure safety to
29 life and property, the actual cost of the inspection, including the
30 expense incident thereto.

31 (9) For the examination of plans and specifications as to safety of
32 controlling works for storage of ten acre feet or more of water, a
33 minimum fee of ten dollars, or the actual cost.

34 (10) For recording an assignment either of a permit to appropriate
35 water or of an application for such a permit, a fee of five dollars.

36 (11) For preparing and issuing all water right certificates, five
37 dollars.

38 (12) For filing and recording a protest against granting any
39 application, two dollars.

1 The department shall provide timely notification by certified mail
2 with return receipt requested to applicants that fees are due. No
3 action may be taken until the fee is paid in full. Failure to remit
4 fees within sixty days of the department's notification shall be
5 grounds for rejecting the application or cancelling the permit. Cash
6 shall not be accepted. Fees must be paid by check or money order and
7 are nonrefundable.

8 For purposes of calculating fees for ground water filings, one
9 cubic foot per second shall be regarded as equivalent to four hundred
10 fifty gallons per minute.

11 NEW SECTION. Sec. 4. (1) There is created a water rights fees
12 task force. The task force shall be comprised of fourteen members, who
13 are appointed as follows:

14 (a) Two members of the Washington state house of representatives,
15 one from each major caucus, to be appointed by the speaker of the house
16 of representatives;

17 (b) Two members of the Washington state senate, one from each major
18 caucus, to be appointed by the president of the senate;

19 (c) Ten members, to be appointed jointly by the speaker of the
20 house of representatives and the president of the senate, to represent
21 the following interests: Agriculture, aquaculture, business, cities,
22 counties, the state department of ecology, environmentalists, water
23 recreation interests, water utilities, and hydropower interests. The
24 task force may establish technical advisory committees as necessary to
25 complete its tasks.

26 (2) The task force shall conduct a comprehensive review of water
27 rights fees. The task force's tasks shall include but not be limited
28 to:

29 (a) Identification of the costs associated with the various
30 activities and services provided by the water rights program and
31 examination of how these costs compare with the fees charged for these
32 activities and services;

33 (b) Identification of appropriate accountability measures for the
34 department of ecology to employ in administration of the water rights
35 program. Recommendations of accountability requirements and
36 measurements shall take into account the distinctive characteristics of
37 the water rights program, that is, that the department receives a large
38 number of applications on a one-time basis and that the department of

1 ecology must meet its legal obligations under the doctrine of prior
2 appropriation;

3 (c) Identification of which program activities should be eligible
4 for cost recovery from fees, as well as which direct and indirect costs
5 of program administration;

6 (d) Review of the application, examination, and water rights permit
7 requirements for marine water users to determine if these users should
8 receive special fee consideration;

9 (e) Review of the definition and treatment of nonconsumptive water
10 uses to determine if special fee consideration should be given to these
11 users;

12 (f) Review of the fees and accounting methods for the dam safety
13 program;

14 (g) Identification of the appropriate distribution of
15 responsibility between the applicant and the department of ecology for
16 provision of technical information and analysis; and

17 (h) Establishment of a reasonable time framework for completion of
18 new and pending water rights applications, and an analysis of the staff
19 and funding levels required to meet the established time framework.

20 (3) Before December 1, 1993, the task force shall:

21 (a) Provide recommendations to the department of ecology on ways to
22 improve the efficiency and accountability of the water rights program;

23 (b) Provide recommendations to the legislature on statutory changes
24 necessary to make these efficiency and accountability improvements; and

25 (c) Propose a new fee schedule for the water rights program which
26 incorporates the results of the task force's work and which funds
27 through fees fifty percent of the cost of the activities and services
28 provided by the program.

29 (4) The department of ecology and the legislature shall jointly
30 provide for the staff support of the task force.

31 (5) The task force shall convene as soon as possible upon the
32 appointment of its members. Task force members shall elect a chair and
33 adopt rules for conducting the business of the task force. The task
34 force shall expire on June 30, 1994.

35 NEW SECTION. **Sec. 5.** The legislature requests that, by July 1,
36 1993, the department of ecology begin the rule-making process to adopt
37 appropriate state policies on instream flow levels and hydraulic
38 continuity. If the department is unable to develop consensus on these

1 policies, the department shall provide to the appropriate legislative
2 committees information on these two issue areas, data and documentation
3 on work to date on establishing policies on these issues, and policy
4 options for consideration by the legislature.

5 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
6 preservation of the public peace, health, or safety, or support of the
7 state government and its existing public institutions, and shall take
8 effect immediately.

9 NEW SECTION. **Sec. 7.** If any provision of this act or its
10 application to any person or circumstance is held invalid, the
11 remainder of the act or the application of the provision to other
12 persons or circumstances is not affected."

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