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**SUBSTITUTE HOUSE BILL 1413**

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**State of Washington**

**61st Legislature**

**2009 Regular Session**

**By** House Agriculture & Natural Resources (originally sponsored by Representatives McCoy, Nelson, Quall, and Blake)

READ FIRST TIME 02/20/09.

1       AN ACT Relating to water discharge fees; amending RCW 90.48.465;  
2 and creating new sections.

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

4       **Sec. 1.** RCW 90.48.465 and 2002 c 361 s 2 are each amended to read  
5 as follows:

6       (1) The department shall establish (~~annual~~) fees to collect  
7 expenses for issuing and administering each class of permits under RCW  
8 90.48.160, 90.48.162, and 90.48.260. An initial fee schedule shall be  
9 established by rule and be adjusted no more often than once every two  
10 years. This fee schedule shall apply to all permits, regardless of  
11 date of issuance, and fees shall be assessed prospectively. All fees  
12 charged shall be based on factors relating to the complexity of permit  
13 issuance and compliance and may be based on pollutant loading and  
14 toxicity and be designed to encourage recycling and the reduction of  
15 the quantity of pollutants. Fees shall be established in amounts to  
16 fully recover and not to exceed expenses incurred by the department in  
17 processing permit applications and modifications, monitoring and  
18 evaluating compliance with permits, conducting inspections, securing  
19 laboratory analysis of samples taken during inspections, reviewing

1 plans and documents directly related to operations of permittees,  
2 overseeing performance of delegated pretreatment programs, and  
3 supporting the overhead expenses that are directly related to these  
4 activities.

5 (2) The annual fee paid by a municipality, as defined in 33 U.S.C.  
6 Sec. 1362, for all domestic wastewater facility permits issued under  
7 RCW 90.48.162 and 90.48.260 shall not exceed the total of a maximum of  
8 ((fifteen)) eighteen cents per month per residence or residential  
9 equivalent contributing to the municipality's wastewater system.

10 (3) The department shall ensure that indirect dischargers do not  
11 pay twice for the administrative expense of a permit. Accordingly,  
12 administrative expenses for permits issued by a municipality under RCW  
13 90.48.165 are not recoverable by the department.

14 (4) In establishing fees, the department shall consider the  
15 economic impact of fees on small dischargers and the economic impact of  
16 fees on public entities required to obtain permits for storm water  
17 runoff and shall provide appropriate adjustments.

18 (5) The fee for an individual permit issued for a dairy farm as  
19 defined under chapter 90.64 RCW shall be fifty cents per animal unit up  
20 to one thousand two hundred fourteen dollars for fiscal year 1999. The  
21 fee for a general permit issued for a dairy farm as defined under  
22 chapter 90.64 RCW shall be fifty cents per animal unit up to eight  
23 hundred fifty dollars for fiscal year 1999. Thereafter, these fees may  
24 rise in accordance with the fiscal growth factor as provided in chapter  
25 43.135 RCW.

26 (6) The fee for a general permit or an individual permit developed  
27 solely as a result of the federal court of appeals decision in  
28 *Headwaters, Inc. v. Talent Irrigation District*, 243 F.3rd 526 (9th Cir.  
29 2001) is limited, until June 30, 2003, to a maximum of three hundred  
30 dollars. Such a permit is required only, and as long as, the  
31 interpretation of this court decision is not overturned or modified by  
32 future court rulings, administrative rule making, or clarification of  
33 scope by the United States environmental protection agency or  
34 legislative action. In such a case the department shall take  
35 appropriate action to rescind or modify these permits.

36 (7) All fees collected under this section shall be deposited in the  
37 water quality permit account hereby created in the state treasury.

1 Moneys in the account may be appropriated only for purposes of  
2 administering permits under RCW 90.48.160, 90.48.162, and 90.48.260.

3 (8) The department shall present a biennial progress report on the  
4 use of moneys from the account to the legislature. The report will be  
5 due December 31st of odd-numbered years. The report shall consist of  
6 information on fees collected, actual expenses incurred, and  
7 anticipated expenses for the current and following fiscal years.

8 NEW SECTION. **Sec. 2.** INCREASING FEES BY THE FISCAL GROWTH FACTOR.  
9 The department of ecology is authorized to increase fees up to the  
10 fiscal growth factor for fiscal years 2010 and 2011, except that there  
11 may be no increase in fees for fiscal years 2010 or 2011 for categories  
12 of dischargers whose fees exceed the costs of managing their permits.  
13 The department of ecology, with the advice of an advisory committee,  
14 shall evaluate the existing fee structure, including the current  
15 inequity of fees relative to permit workload, and report its findings  
16 and recommendations to the 2010 legislature.

17 NEW SECTION. **Sec. 3.** ANNUAL RULE REVISION. The department of  
18 ecology is authorized to adjust the fee schedule annually through  
19 December 31, 2011.

20 NEW SECTION. **Sec. 4.** CAPTIONS NOT LAW. Captions used in this act  
21 are not any part of the law.

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