

SENATE BILL REPORT

SB 5585

As Amended by House, March 4, 2022

Title: An act relating to setting domestic wastewater discharge fees.

Brief Description: Setting domestic wastewater discharge fees.

Sponsors: Senators Rolfes and Das; by request of Department of Ecology.

Brief History:

Committee Activity: Environment, Energy & Technology: 1/11/22, 1/20/22 [DP-WM, DNP].

Floor Activity: Passed Senate: 2/14/22, 27-20.
Passed House: 3/4/22, 57-41.

Brief Summary of Bill

- Removes the existing cap on the fee charged for water quality permits administered by the Department of Ecology (Ecology).
- Creates an advisory committee to provide recommendations to Ecology for setting the water quality permit fee rate and schedule.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Carlyle, Chair; Lovelett, Vice Chair; Das, Lias, Lovick, Nguyen, Sheldon, Stanford and Wellman.

Minority Report: Do not pass.

Signed by Senators Short, Ranking Member; Brown, Fortunato and Schoesler.

Staff: Ashley Trunnell (786-7278)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background: The Clean Water Act. The federal Clean Water Act (CWA) sets limitations for the discharge of pollutants. The Department of Ecology (Ecology) is the delegated CWA authority by the U.S. Environmental Protection Agency (EPA) and the agency authorized by state law to implement state water quality programs.

CWA establishes the National Pollutant Discharge Elimination System (NPDES) permit system to regulate wastewater discharges from point sources to surface waters. Point sources are defined generally as discernible, discrete, and confined conveyances from which pollutant discharges can or do occur. NPDES permits are required for anyone who discharges wastewater to surface waters or who has a significant potential to impact surface waters.

Water Quality Permits. Ecology administers a state program for discharge of pollutants to state waters. A wastewater discharge permit places limits on the quantity and concentrations of contaminants that may be discharged. State permits are required for anyone who discharges waste materials from a commercial or industrial operation to ground or to publicly owned treatment plants, as well as publicly owned treatment plants that discharge to state waters. Permits may require wastewater treatment or impose operating or other conditions, including monitoring, reporting, and spill prevention planning.

Permittees must pay a fee based on a monthly rate, capped at \$0.18 per residence or residential equivalent contributing to a municipality's wastewater system. The fees are intended to cover Ecology's costs related to administering permits and ensuring permitted facilities are in compliance with their wastewater discharge pollution limits. The current fee rate does not recover Ecology's costs of administering the water quality permit program.

Summary of Bill: Water Quality Permit Fees. The cap on the fee charged for water quality permits is removed. Ecology can set the fee at a rate that will recover the costs of administering permits and monitoring permittees' compliance.

Advisory Committee. An advisory committee is formed to create recommendations to adjust the fee schedule for water quality permits. Members of the advisory group are appointed by the director of Ecology or the director's designee and include nine members representing permitted facilities, nonprofit environmental organizations, a statewide association representing cities, a statewide association representing counties, and a statewide business association representative.

The advisory committee must submit a report with their recommendations to Ecology by December 31, 2022. The report must:

- identify the fees needed to fully recover the expenses incurred by Ecology from administering water quality permits and monitoring permittee compliance;
- assess municipal wastewater permitting backlogs and permit workloads;
- assess service levels required to meet state and federal legal mandates and needs of permittees;

- assess the staffing and revenue needed to support those service levels; and
- recommend how to structure the underlying permit fees and the timing and sequence of adjustments.

Ecology must use the recommendations provided by the advisory committee as the basis for the 2023 update to the water quality permit fees.

The advisory committee expires on January 1, 2024.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The fees collected from the water quality permits should cover the program's costs. Eliminating the current fee cap will allow Ecology to serve the needs of municipalities to provide customer service and administer permits more quickly. Removing the fee cap and setting the fee at a rate that ensures Ecology is adequately funded to administer and monitor permits, will help protect the state's public waters.

CON: Eliminating the fee cap removes an option during stakeholder discussions to set a new fee rate. The cap should remain in place and be adjusted in accordance with the fiscal growth factor, rather than eliminated.

Persons Testifying: PRO: Senator Christine Rolfes, Prime Sponsor; Vince McGowan, WA State Dept of Ecology/WQ Program; Clifford Traisman, Washington Conservation Voters/Washington Environmental Council; Bruce Wishart, Zero Waste Washington/Puget Soundkeeper.

CON: Donald Seeberger, Coalition for Clean Water.

Persons Signed In To Testify But Not Testifying: No one.

EFFECT OF HOUSE AMENDMENT(S):

- Adds representatives to the newly formed advisory committee that must recommend permit fee adjustments for municipal wastewater facilities: one from a permitted facility serving more than 200,000 people; one from a special purpose district; and requires the Department of Ecology (Ecology) to offer tribal consultation and invite federally recognized tribes to participate.

- Clarifies that the goal of the advisory committee's task to recommend a permit fee structure is to reduce permitting backlogs and issue permits in a timely manner.
- Requires Ecology to present the advisory committee recommendations to the Legislature at some time once they are available through the 2023 legislative session.
- Requires that Ecology's biennial progress report on the use of permit fees include information: (1) on the implementation of a revised fee structure for municipal wastewater discharge permits; and (2) demonstrating progress towards goals for reducing the wastewater discharge permit backlog.