CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE HOUSE BILL 2309

Chapter 412, Laws of 2005

59th Legislature
2005 Regular Session

WATER RIGHTS--FEES

EFFECTIVE DATE: 7/24/05

Passed by the House April 23, 2005
Yeas 62  Nays 34

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate April 23, 2005
Yeas 32  Nays 16

BRAD OWEN
President of the Senate

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is ENGROSSED SUBSTITUTE HOUSE BILL 2309 as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER
Chief Clerk

Approved May 11, 2005.

FILED
May 11, 2005 - 2:21 p.m.

CHRISTINE GREGOIRE
Governor of the State of Washington

SECRETARY OF STATE
State of Washington
AN ACT Relating to water right fees; amending RCW 90.03.470; adding a new section to chapter 90.14 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds that the fees associated with various actions of the department of ecology relating to the processing and administration of water rights are outdated and are insufficient even to recover the cost of handling the funds submitted. The legislature also finds that water right processing fees are currently collected at three different stages of the water rights process and that reducing the number of instances of fee collection to two stages of the process would increase efficiency and reduce administrative costs. The legislature further finds that several current statutory fees are archaic or are otherwise covered by other general statutes, including the state's public disclosure laws. The legislature therefore intends to update and modernize the fee schedule associated with water right-related actions of the department of ecology.
Sec. 2. RCW 90.03.470 and 1993 c 495 s 2 are each amended to read as follows:

((Except as otherwise provided in subsection (15) of this section,)) The fees specified in this section shall be collected by the department in advance((:)) of the requested action.

(1) For the examination of an application for a permit to appropriate water ((or on application to change point of diversion, withdrawal, purpose or place of use)), a minimum fee of ((ten)) fifty dollars((, to be paid)) must be remitted with the application. For ((each second foot between one and five hundred second feet, two dollars per second foot; for each second foot between five hundred and two thousand second feet, fifty cents per second foot; and for each second foot in excess thereof, twenty cents per second foot)) an amount of water exceeding one-half cubic foot per second, the examination fee shall be assessed at the rate of one dollar per one hundredth cubic foot per second. In no case will the examination fee be less than fifty dollars or more than twenty-five thousand dollars. No fee is required under this subsection (1) for an application filed by a party to a cost reimbursement agreement made under RCW 90.03.265.

(2) For the examination of an application to store water, a fee of two dollars for each acre foot of storage ((up to and including one hundred thousand acre feet, one cent per acre foot, and for each acre foot in excess thereof, one-fifth cent per acre foot)) proposed shall be charged, but a minimum fee of fifty dollars must be remitted with the application. In no case will the examination fee for a storage project be less than fifty dollars or more than twenty-five thousand dollars. No fee is required under this subsection (2) for an application filed by a party to a cost reimbursement agreement made under RCW 90.03.265.

(3)(a) For the examination of an application to transfer, change, or amend a water right certificate, permit, or claim as authorized by RCW 90.44.100, 90.44.105, or 90.03.380, a minimum fee of fifty dollars must be remitted with the application. For an application for change involving an amount of water exceeding one cubic foot per second, the total examination fee shall be assessed at the rate of fifty cents per one hundredth cubic foot per second. For an application for change of a storage water right, the total examination fee shall be assessed at the rate of one dollar for each acre foot of water involved in the
change. The fee shall be based on the amount of water subject to change as proposed in the application, not on the total amount of water reflected in the water right certificate, permit, or claim. In no case will the examination fee charged for a change application be less than fifty dollars or more than twelve thousand five hundred dollars.

(b) The examination fee for a temporary or seasonal change under RCW 90.03.390 is fifty dollars and must be remitted with the application.

(c) No fee is required under this subsection (3) for:

(i) An application to process a change relating to donation of a trust water right to the state;

(ii) An application to process a change when the department otherwise acquires a trust water right for purposes of improving instream flows or for other public purposes;

(iii) An application filed with a water conservancy board according to chapter 90.80 RCW or for the review of a water conservancy board's record of decision submitted to the department according to chapter 90.80 RCW; or

(iv) An application filed by a party to a cost reimbursement agreement made under RCW 90.03.265.

(d) For a change, transfer, or amendment involving a single project operating under more than one water right, including related secondary diversion rights, or involving the consolidation of multiple water rights, only one examination fee and one certificate fee are required to be paid.

(4) The ((ten)) fifty-dollar minimum fee payable with the application shall be a credit to ((that)) the total amount whenever the examination fee ((for direct diversion or storage)) totals more than ((ten)) fifty dollars under the ((above schedule)) schedule specified in subsections (1) through (3) of this section and in such case the further fee due shall be the total computed amount less ((ten-dollars)) the amount previously paid. Within five working days from receipt of an application, the department shall notify the applicant by registered mail of any additional fees due under ((the above schedule and any additional fees shall be paid to and received by the department within thirty days from the date of filing the application, or the application shall be rejected)) subsections (1) through (3) of this section.
For filing and recording a permit to appropriate water for irrigation purposes, forty cents per acre for each acre to be irrigated up to and including one hundred acres, and twenty cents per acre for each acre in excess of one hundred acres up to and including one thousand acres, and ten cents for each acre in excess of one thousand acres, and also twenty cents for each theoretical horsepower up to and including one thousand horsepower, and four cents for each theoretical horsepower in excess of one thousand horsepower, but in no instance shall the minimum fee for filing and recording a permit to appropriate water be less than five dollars. For all other beneficial purposes the fee shall be twice the amount of the examination fee except that for individual household and domestic use, which may include water for irrigation of a family garden, the fee shall be five dollars.

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

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

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

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

(7)) (5) The fees specified in subsections (1) through (3) of this section do not apply to any filings for emergency withdrawal authorizations or temporary drought-related water right changes authorized under RCW 43.83B.410 that are received by the department while a drought condition order issued under RCW 43.83B.405 is in effect.

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

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a fee of fifty dollars is required. These fees also apply to similar extensions of time requested under a change or transfer authorization.

((4))) (7) For the inspection of any hydraulic works to insure safety to life and property, a fee based on the actual cost of the inspection, including the expense incident thereto, is required except as follows: (a) For any hydraulic works less than ten years old, that the department examined and approved the construction plans and specifications as to its safety when required under RCW 90.03.350, there shall be no fee charged; or (b) for any hydraulic works more than ten years old, but less than twenty years old, that the department examined and approved the construction plans and specifications as to its safety when required under RCW 90.03.350, the fee charged shall not exceed the fee for a significant hazard dam.

((5)) (8) For the examination of plans and specifications as to safety of controlling works for storage of ten acre feet or more of water, a minimum fee of ten dollars, or a fee equal to the actual cost, is required.

((6)) (9) For recording an assignment either of a permit to appropriate water or of an application for such a permit, a fee of ((five)) fifty dollars is required.

((7)) (10) For preparing and issuing all water right certificates, ((five)) a fee of fifty dollars is required.

((8)) (11) For filing and recording a formal protest against granting any application, ((two)) a fee of fifty dollars is required. No fee is required to submit a comment, by mail or otherwise, regarding an application.

((9)) (12) For filing an application to amend a water right claim filed under chapter 90.14 RCW, a fee of fifty dollars is required.

(13) An application or request for an action as provided for under this section is incomplete unless accompanied by the fee or the minimum fee. If no fee or an amount less than the minimum fee accompanies an application or other request for an action as provided under this section, the department shall return the application or request to the applicant with advice as to the fee that must be remitted with the application or request for it to be accepted for processing. If additional fees are due, the department shall provide timely
notification by certified mail with return receipt requested to
((applicants that fees are due)) the applicant. No action may be taken
by the department until the fee is paid in full. Failure to remit fees
within sixty days of the department's notification ((shall be)) is
grounds for rejecting the application or request or canceling the
permit. Cash shall not be accepted. Fees must be paid by check or
money order and are nonrefundable.

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

(15) ((For the period beginning July 1, 1993, and ending June 30,
1994, there is imposed and the department shall collect a one hundred
dollar surcharge on all water rights applications or changes filed
under this section, and upon all water rights applications or changes
pending as of July 1, 1993. This charge shall be in addition to any
other fees imposed under this section.)) Eighty percent of the fees
collected by the department under this section shall be deposited in
the state general fund. Twenty percent of the fees collected by the
department under this section shall be deposited in the water rights
tracking system account established in section 3 of this act.

(16) Except for the fees relating to the inspection of hydraulic
works and the examination of plans and specifications of controlling
works provided for in subsections (7) and (8) of this section, nothing
in this section is intended to grant authority to the department to
amend the fees in this section by adoption of rules or otherwise.

NEW SECTION. Sec. 3. A new section is added to chapter 90.14 RCW
to read as follows:
The water rights tracking system account is created in the state
treasury. Twenty percent of the fees collected by the department of
ecology according to RCW 90.03.470 must be deposited in the account.
Moneys in the account may be spent only after appropriation.
Expenditures from the account may be used by the department of ecology
for the development, implementation, and management of a water rights
tracking system, including a water rights mapping system and a water
rights data base.

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