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HOUSE BILL 2874

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State of Washington

54th Legislature

1996 Regular Session

By Representative Chandler

Read first time 01/23/96. Referred to Committee on Agriculture & Ecology.

1 AN ACT Relating to the wastewater discharge permit program;  
2 amending RCW 90.48.465; amending 1995 2nd sp.s. c 18 s 303  
3 (uncodified); adding new sections to chapter 90.48 RCW; creating a new  
4 section; and making appropriations.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds the state's water  
7 policy as enunciated in RCW 90.48.010 calls for high levels of water  
8 quality in a manner that is consistent with public health, fish and  
9 wildlife, and the industrial development of the state. The legislature  
10 also finds that the department has not equitably allocated the costs of  
11 water pollution control between point and nonpoint dischargers, nor has  
12 it equitably allocated the costs of administering the wastewater  
13 discharge permit program among permittees.

14 The legislature finds that the department's wastewater discharge  
15 permit program is administered such that water quality is pursued  
16 without adequate consideration of the state's industrial development.  
17 The legislature therefore declares that the department shall meet the  
18 full requirements of RCW 90.48.010 by expeditiously implementing the  
19 requirements under section 2 of this act.

1 (2) The legislature finds that the department has created a  
2 wastewater permit program partnership advisory group to assist the  
3 department in addressing issues relating to the state's wastewater  
4 discharge permit program. The legislature finds that this group has  
5 provided valuable recommendations to the department and that it is  
6 appropriate for the advisory group to select a consultant to make  
7 recommendations regarding a wastewater discharge permit fee schedule.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 90.48 RCW  
9 to read as follows:

10 In administering the wastewater discharge permit program, the  
11 department shall:

12 (1) Identify industry-wide or basin-wide problems and needs;

13 (2) Establish permit requirements that fairly allocate the costs of  
14 water quality pollution control among point and nonpoint dischargers;

15 (3) Develop permit fees using a work load model that allocates the  
16 department's cost of administering a wastewater discharge permit based  
17 on the amount of time that the department spends on the permit;

18 (4) Streamline permit requirements for currently permitted small  
19 volume dischargers by expeditiously establishing a de minimis  
20 discharger category. The department shall seek to minimize the  
21 economic costs borne by dischargers within this category. The  
22 department may use the provisions under RCW 34.05.313 to expedite the  
23 creation and regulation of this discharger category;

24 (5) Reduce the overall number and scope of special studies required  
25 of a permitted discharger. In meeting this requirement, the department  
26 shall distinguish between site-specific water quality problems and  
27 area-wide or industry-wide water quality problems. In instances where  
28 the department has identified an area-wide or industry-wide water  
29 quality problem, the department shall, to the maximum extent possible,  
30 establish permit requirements for special studies in a manner that  
31 avoids duplication of data; and

32 (6) Summarize for each permit that establishes a numeric effluent  
33 limit:

34 (a) The permittee's pollution loading into a basin as a percentage  
35 of all other point and nonpoint dischargers; and

36 (b) The need for any significant new permit conditions.

1        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 90.48 RCW  
2 to read as follows:

3        Beginning with the 1997 fiscal year, except as provided in section  
4 6(2), chapter . . . , Laws of 1996 (section 6(2) of this act), the  
5 department may not spend any funds from the water quality permit  
6 account on:

7            (1) The development of a sediments program;

8            (2) Appeals;

9            (3) Rule development; and

10           (4) Training of staff who are not included in the department's work  
11 load model created pursuant to section 2 of this act.

12        **Sec. 4.**    RCW 90.48.465 and 1992 c 174 s 17 are each amended to read  
13 as follows:

14           (1) The department shall establish annual fees to collect expenses  
15 for issuing and administering each class of permits under RCW  
16 90.48.160, 90.48.162, 90.48.260, and 70.95J.020 through 70.95J.090. An  
17 initial fee schedule shall be established by rule within one year of  
18 March 1, 1989, and thereafter the fee schedule shall be adjusted no  
19 more often than once every two years. This fee schedule shall apply to  
20 all permits, regardless of date of issuance, and fees shall be assessed  
21 prospectively. All fees charged shall be based on factors relating to  
22 the complexity of permit issuance and compliance and may be based on  
23 pollutant loading and toxicity and be designed to encourage recycling  
24 and the reduction of the quantity of pollutants. Fees shall be  
25 established in amounts to fully recover and not to exceed expenses  
26 incurred by the department in processing permit applications and  
27 modifications, monitoring and evaluating compliance with permits,  
28 conducting inspections, securing laboratory analysis of samples taken  
29 during inspections, reviewing plans and documents directly related to  
30 operations of permittees, overseeing performance of delegated  
31 pretreatment programs, and supporting the overhead expenses that are  
32 directly related to these activities. The following overhead expenses  
33 shall not be supported through permit fees: Appeals, rule development,  
34 training of staff who are not included in the work load model; and  
35 development of a sediments program.

36           (2) The annual fee paid by a municipality, as defined in 33 U.S.C.  
37 Sec. 1362, for all domestic wastewater facility permits issued under  
38 RCW 90.48.162, 90.48.260, and 70.95J.020 through 70.95J.090 shall not

1 exceed the total of a maximum of fifteen cents per month per residence  
2 or residential equivalent contributing to the municipality's wastewater  
3 system. The department shall adopt by rule a schedule of credits for  
4 any municipality engaging in a comprehensive monitoring program beyond  
5 the requirements imposed by the department, with the credits available  
6 for five years from March 1, 1989, and with the total amount of all  
7 credits not to exceed fifty thousand dollars in the five-year period.

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

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

16 (5) All fees collected under this section shall be deposited in the  
17 water quality permit account hereby created in the state treasury.  
18 Moneys in the account may be appropriated only for purposes of  
19 administering permits under RCW 90.48.160, 90.48.162, 90.48.260, and  
20 70.95J.020 through 70.95J.090.

21 (6) The department shall submit an annual report to the legislature  
22 showing detailed information on fees collected, actual expenses  
23 incurred, and anticipated expenses for the current and following fiscal  
24 years.

25 (7) The legislative budget committee in 1993 shall review the fees  
26 established under this section and report its findings to the  
27 legislature in January 1994.

28 **Sec. 5.** 1995 2nd sp.s. c 18 s 303 (uncodified) is amended to read  
29 as follows:

30 **FOR THE DEPARTMENT OF ECOLOGY**

31	General Fund--State Appropriation (FY 1996) . . . \$	22,125,000
32	General Fund--State Appropriation (FY 1997) . . . \$	20,639,000
33	General Fund--Federal Appropriation . . . . . \$	42,131,000
34	General Fund--Private/Local Appropriation . . . . \$	1,385,000
35	Special Grass Seed Burning Research Account	
36	Appropriation . . . . . \$	42,000
37	Reclamation Revolving Account Appropriation . . . \$	2,664,000
38	Flood Control Assistance Account Appropriation . \$	4,000,000

1	State Emergency Water Projects Revolving Account	
2	Appropriation . . . . .	\$ 312,000
3	Waste Reduction, Recycling, and Litter Control	
4	Account Appropriation . . . . .	\$ 5,461,000
5	State and Local Improvements Revolving Account--	
6	Waste Disposal Appropriation . . . . .	\$ 1,000,000
7	State and Local Improvements Revolving Account--	
8	Water Supply Facilities Appropriation . . . . .	\$ 1,344,000
9	Basic Data Account Appropriation . . . . .	\$ 182,000
10	Vehicle Tire Recycling Account Appropriation . . . . .	\$ 3,283,000
11	Water Quality Account Appropriation . . . . .	\$ 3,420,000
12	Worker and Community Right to Know Account	
13	Appropriation . . . . .	\$ 408,000
14	State toxics Control Account Appropriation . . . . .	\$ 49,924,000
15	Local toxics Control Account Appropriation . . . . .	\$ 3,342,000
16	<del>((Water Quality Permit Account Appropriation . . . . .</del>	<del>\$ 19,600,000))</del>
17	Underground Storage Tank Account	
18	Appropriation . . . . .	\$ 2,336,000
19	Solid Waste Management Account Appropriation . . . . .	\$ 3,631,000
20	Hazardous Waste Assistance Account	
21	Appropriation . . . . .	\$ 3,476,000
22	Air Pollution Control Account Appropriation . . . . .	\$ 13,458,000
23	Oil Spill Administration Account Appropriation . . . . .	\$ 2,939,000
24	Water Right Permit Processing Account	
25	Appropriation . . . . .	\$ 500,000
26	Wood Stove Education Account Appropriation . . . . .	\$ 1,251,000
27	Air Operating Permit Account Appropriation . . . . .	\$ 4,548,000
28	Freshwater Aquatic Weeds Account Appropriation . . . . .	\$ 1,187,000
29	Oil Spill Response Account Appropriation . . . . .	\$ 7,060,000
30	Metals Mining Account Appropriation . . . . .	\$ 300,000
31	Water Pollution Control Revolving Account--State	
32	Appropriation . . . . .	\$ 165,000
33	Water Pollution Control Revolving Account--Federal	
34	Appropriation . . . . .	\$ 1,019,000
35	TOTAL APPROPRIATION . . . . .	\$ ((223,132,000))
36		<u>203,532,000</u>

37       The appropriations in this section are subject to the following  
38 conditions and limitations:

1 (1) \$6,324,000 of the general fund--state appropriation is provided  
2 solely for the implementation of the Puget Sound water quality  
3 management plan. In addition, \$394,000 of the general fund--federal  
4 appropriation, \$819,000 of the state toxics control account  
5 appropriation, \$3,591,000 of the water quality permit fee account  
6 appropriation, \$883,000 of the water quality account appropriation, and  
7 \$2,715,000 of the oil spill administration account appropriation may be  
8 used for the implementation of the Puget Sound water quality management  
9 plan.

10 ((+3)) (2) \$150,000 of the state toxics control account  
11 appropriation and \$150,000 of the local toxics control account  
12 appropriation are provided solely for implementing Engrossed Substitute  
13 House Bill No. 1810 (hazardous substance cleanup). If the bill is not  
14 enacted by June 30, 1995, the amount provided in this subsection shall  
15 lapse.

16 ((+4)) (3) \$581,000 of the general fund--state appropriation,  
17 \$170,000 of the air operating permit account appropriation, (~~(\$80,000~~  
18 ~~of the water quality permit account appropriation,~~) and \$63,000 of the  
19 state toxics control account appropriation are provided solely for  
20 implementing Engrossed Substitute House Bill No. 1010 (regulatory  
21 reform). If the bill is not enacted by June 30, 1995, the amount  
22 provided in this subsection shall lapse.

23 ((+5)) (4) \$2,000,000 of the state toxics control account  
24 appropriation is provided solely for the following purposes:

25 (a) To conduct remedial actions for sites for which there are no  
26 potentially liable persons or for which potentially liable persons  
27 cannot be found;

28 (b) To provide funding to assist potentially liable persons under  
29 RCW 70.105D.070(2)(d)(xi) to pay for the cost of the remedial actions;  
30 and

31 (c) To conduct remedial actions for sites for which potentially  
32 liable persons have refused to comply with the orders issued by the  
33 department under RCW 70.105D.030 requiring the persons to provide the  
34 remedial action.

35 ((+6)) (5) \$250,000 of the flood control assistance account is  
36 provided solely for a grant or contract to the lead local entity for  
37 technical analysis and coordination with the Army Corps of Engineers  
38 and local agencies to address the breach in the south jetty at the  
39 entrance of Grays Harbor.

1       (~~(7)~~) (6) \$70,000 of the general fund--state appropriation,  
2 \$90,000 of the state toxics control account appropriation, and \$55,000  
3 of the air pollution control account appropriation are provided solely  
4 to implement Engrossed Substitute House Bill No. 1724 (growth  
5 management). If the bill is not enacted by June 30, 1995, the amounts  
6 provided in this subsection shall lapse.

7       (~~(8)~~) (7) If Engrossed Substitute House Bill No. 1125 (dam safety  
8 inspections), or substantially similar legislation, is not enacted by  
9 June 30, 1995, then the department shall not expend any funds  
10 appropriated in this section for any regulatory activity authorized  
11 under RCW 90.03.350 with respect to hydroelectric facilities which  
12 require a license under the federal power act, 16 U.S.C.~~(S-)~~ Sec.  
13 791a et seq. If Engrossed Substitute House Bill No. 1125, or  
14 substantially similar legislation, is enacted by June 30, 1995, then  
15 the department may apply all available funds appropriated under this  
16 section for regulatory activity authorized under RCW 90.03.350 for the  
17 purposes of inspecting and regulating the safety of dams under the  
18 exclusive jurisdiction of the state.

19       (~~(9)~~) (8) \$425,000 of the general fund--state appropriation and  
20 \$525,000 of the general fund--federal appropriation are provided solely  
21 for the Padilla Bay national estuarine research reserve and  
22 interpretive center.

23       (~~(11)~~) (9) The water right permit processing account is hereby  
24 created in the state treasury. Moneys in the account may be spent only  
25 after appropriation. Expenditures from the account may be used solely  
26 for water right permit processing, regional water planning, and  
27 implementation of regional water plans.

28       (~~(12)~~) (10) \$1,298,000 of the general fund--state appropriation,  
29 \$188,000 of the general fund--federal appropriation, and \$883,000 of  
30 the water quality account appropriation are provided solely to  
31 coordinate and implement the activities required by the Puget Sound  
32 water quality management plan and to perform the powers and duties  
33 under chapter 90.70 RCW.

34       NEW SECTION.   **Sec. 6.**   (1) The sum of fourteen million seven  
35 hundred thousand dollars, or as much thereof as may be necessary, is  
36 appropriated for the biennium ending June 30, 1997, from the water  
37 quality permit account to the department of ecology. Of this amount,  
38 fifty thousand dollars is provided solely for the department and the

1 wastewater permit program partnership advisory group to hire a  
2 consultant.

3 (2) The sum of eighty thousand dollars, or as much thereof as may  
4 be necessary, is appropriated for the biennium ending June 30, 1997,  
5 from the water quality permit account to implement chapter 403, Laws of  
6 1995.

7 (3) In conjunction with the department and the advisory group, the  
8 consultant shall develop a fee schedule, based on a work load model,  
9 that meets the state's water quality goals and implements section 2 of  
10 this act. The consultant shall also make recommendations on  
11 appropriate fee levels for the 1997-99 biennium that are consistent  
12 with the policy provisions of this act.

13 (4) In making the appropriations in this section, it is the intent  
14 of the legislature that the department of ecology reduce administrative  
15 and program support costs to the water quality permit account program  
16 by at least two million four hundred ten thousand dollars in fiscal  
17 year 1997 or forty-five percent compared to fiscal year 1996, whichever  
18 is greater. In addition to these support savings, it is also the  
19 intent of the legislature that direct permit-related work load savings  
20 be achieved by the department through implementation of section 2 of  
21 this act.

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