

HB 1775

Bill Analysis

March 4, 1999

Brief Description: Limiting fee increases for air pollution control authorities to the fiscal growth factor.

Bill Sponsors: Representatives Pennington, Grant, Mielke, Lisk, Boldt, McMorris, Koster, G. Chandler, Linville, Carlson, Schoesler, Cooper and Ogden.

Brief Summary of Bill

- Annual increases in certain air pollution control fees charged by the Department of Ecology or local air pollution control authorities cannot exceed the fiscal growth factor.
- The fiscal growth factor is computed as the rolling three-year average of the state's population increase plus the rate of inflation (Fiscal growth factor is a term that was defined in Initiative 601.)

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Background:

The Department of Ecology (department) and local air pollution control authorities (local authorities) are authorized to assess fees for air pollution control purposes. Some of these fees are as follows:

Registration Fees

The department or local authority may classify air contaminant sources according to levels and types of contaminants. The department or local authority may also impose registration

requirements for certain class or classes of air contaminant sources and charge registration fees. Registration fees are only to compensate for administrative costs.

New Source Fees

A new source is any construction or modification at a facility that increases the amount of air pollution being emitted or results in a new contaminant being emitted. The Washington Clean Air Act requires that new sources submit a prior notice of construction to the department or local authority for review. The department or local authority determines whether the construction/modification will meet state regulatory requirements. These requirements include the best available control technology, which is a regulated emission standard that specifies the type of technology to be used. The department or local authority is authorized to charge fees to cover direct and indirect costs incurred in conducting a new source review.

Existing Source Fees

Existing sources of air contaminants are subject to a lower technological standard for pollution control under the Washington Clean Air Act. Although new sources must comply with best available control technology (BACT), existing sources must meet reasonably available technology control (RACT) standards. In some cases RACT standards are set for general categories of emission sources. In other cases, a RACT review is conducted for a specific source of emissions. The department or local authority is authorized to charge fees to cover direct and indirect costs of developing, establishing, or reviewing categorical or case-by-case RACT requirements.

Operating Permit Fees

Under the Washington Clean Air Act the department or local authority must require renewable permits for the operation of air contaminant sources, subject to certain conditions. Operating permits apply to all sources of air contaminants that are required by the Federal Clean Air Act and to any source that may cause or contribute to air pollution in such quantity as to create a threat to the public health or welfare. The department and local air authorities are allowed to collect annual fees sufficient to cover direct and indirect costs for implementing their operating permit programs. For example, permit fee revenues may be used to cover costs associated with source inspections, testing and modeling, and enforcement activities.

Burning Permit Fees for Weed Abatement, Agricultural, or Fire-Fighting Training Purposes

Persons who set fires for purposes of weed abatement, agricultural, or certain types of fire-fighting training purposes must obtain a burn permit from the department or local authority. The department or local authority may charge permit a fee for these burn permits.

Limits on Fee Increases - Fiscal Growth Factor

There are no statutory limits regarding the amount by which local authorities may increase the following fees: registration fees, new and existing source fees, and operating permit fees. Only annual increases for burning permit fees issued for weed abatement, agricultural, or certain fire-fighting purposes are limited by statute. These burning permit fees were initially capped in 1991 at no more than two dollars and fifty cents per acre to be burned, and subsequent increases are limited to annual inflation adjustments as determined by the State Office of the Economic and Revenue Forecast Council.

Initiative 601 was enacted by the voters at the November 1993 general election. One provision of Initiative 601 limited annual growth in state general fund expenditures to a fiscal growth factor. This fiscal growth factor is computed as the rolling three-year average of the state's population increase plus the rate of inflation. Per Initiative 601 state agencies cannot increase their fees by more than the fiscal growth factor in any one year period without prior legislative approval.

Summary of Bill:

Certain air pollution control fees cannot be increased by more than the fiscal growth factor in any given fiscal year. Specifically, annual increases in the following fees charged by either the Department of Ecology or a local air pollution control authority cannot exceed the fiscal growth factor:

- registration fees;
- new source fees;
- existing source fees;
- operating permit fees; and
- burning permit fees for weed abatement, agricultural or fire-fighting purposes.

The fiscal growth factor is defined as the average of the sum of inflation and population change for each of the prior three fiscal years.

Appropriation: None.

Fiscal Note: Available.

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