
SUBSTITUTE SENATE BILL 5534

State of Washington

52nd Legislature

1991 Regular Session

By Senate Committee on Environment & Natural Resources (originally sponsored by Senators Metcalf and Matson).

Read first time February 25, 1991.

1 AN ACT Relating to water discharge permit fees; amending RCW
2 90.48.465 and 90.48.250; adding a new section to chapter 70.146 RCW;
3 creating a new section; and making appropriations.

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

5 **Sec. 1.** RCW 90.48.465 and 1989 c 2 s 13 are each amended to read
6 as follows:

7 (1) The department shall establish annual fees to collect expenses
8 for issuing and administering each class of permits under RCW
9 90.48.160, 90.48.162, and 90.48.260. An initial fee schedule shall be
10 established by rule within one year of March 1, 1989, and thereafter
11 the fee schedule shall be adjusted no more often than once every two
12 years. This fee schedule shall apply to all permits, regardless of
13 date of issuance, and fees shall be assessed prospectively. All fees
14 charged shall be based on factors relating to the complexity of permit
15 issuance and compliance and may be based on pollutant loading and

1 toxicity and be designed to encourage recycling and the reduction of
2 the quantity of pollutants. Fees shall be established in amounts to
3 ~~((fully)) recover ((and not to exceed))~~ fee eligible expenses incurred
4 by the department, so long as fees do not exceed the limitations upon
5 total fees provided in subsection (10) of this section. Fee eligible
6 expenses means the total actual costs incurred by the department in
7 processing permit applications and modifications, monitoring and
8 evaluating compliance with permits, conducting inspections, securing
9 laboratory analysis of samples taken during inspections, reviewing
10 required plans and documents directly related to operations of
11 permittees, overseeing performance of delegated pretreatment programs,
12 and supporting the overhead expenses that are directly related to
13 ~~((these activities.~~

14 ~~(2) The annual fee paid by a municipality, as defined in 33 U.S.C.~~
15 ~~Sec. 1362, for all domestic wastewater facility permits issued under~~
16 ~~RCW 90.48.162 and 90.48.260 shall not exceed the total of a maximum of~~
17 ~~five cents per month per residence or residential equivalent~~
18 ~~contributing to the municipality's wastewater system.))~~ each of the
19 preceding activities. Fee eligible expenses shall not include costs
20 related to: (a) Processing of penalties and notices of violation,
21 inspections that extend beyond compliance monitoring, criminal
22 investigations, or the overhead expenses directly related to these
23 activities; or (b) department administrative overhead such as executive
24 branch support or financial and administrative services.

25 (2) The department shall convene and consult with the permit fee
26 advisory committee as necessary to review any adjustments to proposed
27 fees for recovery of fee eligible expenses authorized under this
28 chapter. The permit fee advisory committee shall consist of
29 representatives from the department, state agencies that procure waste
30 discharge permits, large and small industrial dischargers, large and

1 small municipal dischargers, environmental organizations, other state
2 and federal agencies as appropriate, and interested parties. The
3 department shall consult with associations related to discharger
4 categories for recommended representatives to the permit fee advisory
5 committee.

6 (3) The department shall establish by rule, before January 1, 1992,
7 the indirect and overhead program expenses that shall be recovered by
8 waste discharge permit fees.

9 (4) The department shall adopt by rule a schedule of credits for
10 any municipality engaging in a comprehensive monitoring program beyond
11 the requirements imposed by the department(~~(, with the credits~~
12 available for five years from March 1, 1989, and with the total amount
13 of all credits not to exceed fifty thousand dollars in the five year
14 period)). The amount of credits issued to a municipality shall not
15 exceed four percent of the total annual fees collected from municipal
16 wastewater dischargers.

17 (5) The department shall tier permit monitoring requirements so
18 that if baseline sampling discloses no measurable adverse effects to
19 the waters of the state, or biota or sediments in the waters of the
20 state, or that no potential adverse effects may result to the waters of
21 the state, or biota or sediments in the waters of the state, a reduced
22 monitoring schedule may then apply. The department shall also allow
23 coordinated ambient monitoring by multiple neighboring permittees
24 discharging into the same receiving waters, subject to department
25 approval to ensure the quality of such coordinated monitoring.

26 ~~((3))~~ (6) The department shall ensure that indirect dischargers
27 do not pay twice for the administrative expenses of a permit.
28 Accordingly, administrative expenses for permits issued by a
29 municipality under RCW 90.48.165 are not recoverable by the department.

1 (~~(4)~~) (7) In establishing fees, the department shall consider the
2 economic impact of fees on small dischargers and the economic impact of
3 fees on public entities required to obtain permits for storm water
4 runoff and shall provide appropriate adjustments.

5 (~~(5)~~) (8) All fees collected under this section shall be
6 deposited in the water quality permit account hereby created in the
7 state treasury. Moneys in the account may be appropriated only for
8 purposes of administering permits under RCW 90.48.160, 90.48.162, and
9 90.48.260.

10 (~~(6)~~) (9) The department shall submit (~~(an annual)~~) a report to
11 the legislature by November 1st of each even year showing detailed
12 information on fees collected, actual expenses incurred, (~~(and)~~)
13 anticipated expenses, and the actual costs for representative permits
14 in the large and small industrial, and large and small municipal
15 discharger categories for the current and following fiscal years. The
16 department shall include in its report, recommendations for cost
17 reductions in permit management and compliance activities, and
18 recommendations for nonregulatory or alternative approaches to control
19 point source discharges.

20 (~~(7)~~) (10) The department shall not increase the total fees
21 collected by more than six percent for any two-year period commencing
22 July 1, 1993. The base to which this limitation shall apply on July 1,
23 1993, shall be the amount appropriated from the water quality permit
24 account for the biennium ending June 30, 1993, less four million
25 dollars.

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

1 **Sec. 2.** RCW 90.48.250 and 1987 c 109 s 141 are each amended to
2 read as follows:

3 (1) The department is authorized to make agreements and enter into
4 such contracts as are appropriate to carry out a program of monitoring
5 the condition of the waters of the state and the effluent discharged
6 therein, including contracts to monitor effluent discharged into public
7 waters when such monitoring is required by the terms of a waste
8 discharge permit or as part of the approval of a sewerage system, if
9 adequate compensation is provided to the department as a term of the
10 contract.

11 (2) A person holding or applying for a waste discharge permit may
12 request that the department contract with third parties, to be
13 determined by the department, activities associated with preparing such
14 permit or permit application, where not inconsistent with state or
15 federal requirements.

16 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.146 RCW
17 to read as follows:

18 Permit fees paid by municipal wastewater dischargers for each class
19 of permits under RCW 90.48.160, 90.48.162, and 90.48.260, may be
20 claimed for the purpose of meeting matching grant requirements under
21 this chapter. Permit fees paid in prior years may be claimed to meet
22 match requirements, but not more than once.

23 NEW SECTION. **Sec. 4.** The sum of one hundred thousand dollars,
24 or as much thereof as may be necessary, is appropriated for the
25 biennium ending June 30, 1993, from the general fund to the water
26 quality permit account solely for the purposes of offsetting the
27 economic impact of permit costs for small dischargers and
28 municipalities who meet the requirements of RCW 90.48.465(7).

1 NEW SECTION. **Sec. 5.** The sum of fourteen million six hundred
2 thousand dollars, or as much thereof as may be necessary, is
3 appropriated for the biennium ending June 30, 1993, from the water
4 quality permit account to the department of ecology for the purpose of
5 administering the water quality discharge permit program. Four million
6 dollars of this appropriation is provided solely for the purpose of
7 implementing the permit program improvements recommended by the
8 efficiency commission, and identifying and regulating point source
9 dischargers.

10 NEW SECTION. **Sec. 6.** If any part of this act is found to be
11 in conflict with federal requirements that are a prescribed condition
12 for the allocation of federal funds to the state or the maintenance of
13 the state authority to administer federal permit requirements, the
14 conflicting part of this act is inoperative solely to the extent of the
15 conflict and this conflict does not affect the operation of the
16 remainder of this act. The rules adopted under this act shall meet
17 federal requirements that are a necessary condition to the receipt of
18 federal funds by the state, or the maintenance of the state authority
19 to administer federal permit requirements.