

---

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5534

---

State of Washington

52nd Legislature

1991 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Metcalf and Matson).

Read first time March 11, 1991.

1 AN ACT Relating to water discharge permit fees; amending RCW  
2 90.48.465; adding a new section to chapter 90.03 RCW; adding a new  
3 section to chapter 90.44 RCW; adding a new section to chapter 90.48  
4 RCW; adding a new section to chapter 70.94 RCW; and creating a new  
5 section.

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

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

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

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

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

27 (2) The department shall convene and consult with the permit fee  
28 advisory committee as necessary to review any adjustments to proposed  
29 fees for recovery of fee eligible expenses authorized under this  
30 chapter. The permit fee advisory committee shall consist of

1 representatives from the department, state agencies that procure waste  
2 discharge permits, large and small industrial dischargers, large and  
3 small municipal dischargers, environmental organizations, other state  
4 and federal agencies as appropriate, and interested parties. The  
5 department shall consult with associations related to discharger  
6 categories for recommended representatives to the permit fee advisory  
7 committee.

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

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

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

28 ~~((3))~~ (6) The department shall ensure that indirect dischargers  
29 do not pay twice for the administrative expenses of a permit.  
30 Accordingly, administrative expenses for permits issued by a

1 municipality under RCW 90.48.165 are not recoverable by the department  
2 nor are such expenses recoverable by the department for permits issued  
3 to indirect dischargers using a permitted industrial waste treatment  
4 facility that is a food processing waste treatment facility owned and  
5 operated by a municipality.

6 ((+4)) (7) In establishing fees, the department shall consider the  
7 economic impact of fees on small dischargers and the economic impact of  
8 fees on public entities required to obtain permits for storm water  
9 runoff and shall provide appropriate adjustments. The department shall  
10 consider the economic impact of fees on municipalities with populations  
11 less than five thousand and shall provide appropriate adjustments.

12 ((+5)) (8) All fees collected under this section shall be  
13 deposited in the water quality permit account hereby created in the  
14 state treasury. Moneys in the account may be appropriated only for  
15 purposes of administering permits under RCW 90.48.160, 90.48.162, and  
16 90.48.260.

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

27 ((+7)) (10) The department shall not increase the total fees  
28 collected by more than six percent for any two-year period commencing  
29 July 1, 1993. Total fees collected in any biennium shall not exceed  
30 the total appropriation from the water quality permit account.

1        (11) The department shall not increase the permit fees for a  
2 municipality with a population less than five thousand by more than six  
3 percent for any two-year period commencing July 1, 1991.

4        (12) The legislative budget committee in 1993 shall review the fees  
5 established under this section and report its findings to the  
6 legislature in January 1994.

7        NEW SECTION. Sec. 2. A new section is added to chapter 90.03 RCW  
8 to read as follows:

9        Any fee for a permit established by the department of ecology  
10 pursuant to this chapter shall not be increased to an amount that would  
11 exceed six percent per year based upon the fee in effect as of January  
12 1, 1990.

13        NEW SECTION. Sec. 3. A new section is added to chapter 90.44 RCW  
14 to read as follows:

15        Any fee for a permit established by the department of ecology  
16 pursuant to this chapter shall not be increased to an amount that would  
17 exceed six percent per year based upon the fee in effect as of January  
18 1, 1990.

19        NEW SECTION. Sec. 4. A new section is added to chapter 90.48 RCW  
20 to read as follows:

21        Any fee for a permit established by the department of ecology  
22 pursuant to this chapter shall not be increased to an amount that would  
23 exceed six percent per year based upon the fee in effect as of January  
24 1, 1990.

25        NEW SECTION. Sec. 5. A new section is added to chapter 70.94 RCW  
26 to read as follows:

1 Any fee for a permit established by the department of ecology  
2 pursuant to this chapter shall not be increased to an amount that would  
3 exceed six percent per year based upon the fee in effect as of January  
4 1, 1990.

5 NEW SECTION. **Sec. 6.** If specific funding for the purposes of  
6 this act, referencing this act by bill number, is not provided by June  
7 30, 1991, in the omnibus appropriations act, this act shall be null and  
8 void.