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SECOND SUBSTITUTE SENATE BILL 5534

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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; and creating a new section.

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

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

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

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

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

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

1 and federal agencies as appropriate, and interested parties. The  
2 department shall consult with associations related to discharger  
3 categories for recommended representatives to the permit fee advisory  
4 committee.

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

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

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

25 ~~((3))~~ (6) The department shall ensure that indirect dischargers  
26 do not pay twice for the administrative expenses of a permit.  
27 Accordingly, administrative expenses for permits issued by a  
28 municipality under RCW 90.48.165 are not recoverable by the department.

29 ~~((4))~~ (7) In establishing fees, the department shall consider the  
30 economic impact of fees on small dischargers and the economic impact of

1 fees on public entities required to obtain permits for storm water  
2 runoff and shall provide appropriate adjustments.

3 ~~((+5))~~ (8) All fees collected under this section shall be  
4 deposited in the water quality permit account hereby created in the  
5 state treasury. Moneys in the account may be appropriated only for  
6 purposes of administering permits under RCW 90.48.160, 90.48.162, and  
7 90.48.260.

8 ~~((+6))~~ (9) The department shall submit ~~((an annual))~~ a report to  
9 the legislature by November 1st of each even year showing detailed  
10 information on fees collected, actual expenses incurred, ~~((and))~~  
11 anticipated expenses, and the actual costs for representative permits  
12 in the large and small industrial, and large and small municipal  
13 discharger categories for the current and following fiscal years. The  
14 department shall include in its report, recommendations for cost  
15 reductions in permit management and compliance activities, and  
16 recommendations for nonregulatory or alternative approaches to control  
17 point source discharges.

18 ~~((+7))~~ (10) The department shall not increase the total fees  
19 collected by more than six percent for any two-year period commencing  
20 July 1, 1993. Total fees collected in any biennium shall not exceed  
21 the total appropriation from the water quality permit account.

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

25 NEW SECTION. Sec. 2. If specific funding for the purposes of  
26 this act, referencing this act by bill number, is not provided by June  
27 30, 1991, in the omnibus appropriations act, this act shall be null and  
28 void.