
SENATE BILL 5700

State of Washington 52nd Legislature 1991 Regular Session

By Senators Matson, Bailey, Hansen, Newhouse, Barr, McMullen, Sellar, Bauer, Anderson, Hayner, McCaslin, Owen, L. Smith and Thorsness.

Read first time February 15, 1991. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to the regulation of small businesses; amending RCW
2 90.48.260 and 90.48.465; creating new sections; and declaring an
3 emergency.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that small
6 businesses make up ninety-eight percent of all business establishments
7 in the state and employ over fifty percent of the state's work force.
8 Small firms, therefore, play an integral role in assuring the state's
9 economic vitality. The legislature finds that small businesses are
10 concerned about establishing and maintaining clean, safe places to live
11 and work and recognize the need to establish state-wide policies and
12 regulations to achieve these goals. The legislature also finds that
13 such policies and regulations are often improperly administered,
14 resulting in the inadequate achievement of the intended goals of a
15 particular policy. In addition, the ineffective implementation of such

1 policies can seriously impede the commercial activity of small
2 businesses which threatens the viability of these firms and the overall
3 economic health of the state. The governor's small business
4 improvement council has identified a number of existing policies and
5 regulations that are of particular concern to the small business
6 community. It is the intent of the legislature to encourage and
7 promote the commercial activity of small firms and to prevent the
8 ineffective administration of state policies and regulations affecting
9 such firms.

10 **Sec. 2.** RCW 90.48.260 and 1988 c 220 s 1 are each amended to read
11 as follows:

12 The department of ecology is hereby designated as the State Water
13 Pollution Control Agency for all purposes of the federal clean water
14 act as it exists on February 4, 1987, and is hereby authorized to
15 participate fully in the programs of the act as well as to take all
16 action necessary to secure to the state the benefits and to meet the
17 requirements of that act. With regard to the national estuary program
18 established by section 320 of that act, the department shall exercise
19 its responsibility jointly with the Puget Sound water quality
20 authority. The powers granted herein include, among others, and
21 notwithstanding any other provisions of chapter 90.48 RCW or otherwise,
22 the following:

23 (1) Complete authority to establish and administer a comprehensive
24 state point source waste discharge or pollution discharge elimination
25 permit program which will enable the department to qualify for full
26 participation in any national waste discharge or pollution discharge
27 elimination permit system and will allow the department to be the sole
28 agency issuing permits required by such national system operating in
29 the state of Washington subject to the provisions of RCW 90.48.262(2).

1 Program elements authorized herein may include, but are not limited to:
2 (a) Effluent treatment and limitation requirements together with timing
3 requirements related thereto; (b) applicable receiving water quality
4 standards requirements; (c) requirements of standards of performance
5 for new sources; (d) pretreatment requirements; (e) termination and
6 modification of permits for cause; (f) requirements for public notices
7 and opportunities for public hearings; (g) appropriate relationships
8 with the secretary of the army in the administration of his or her
9 responsibilities which relate to anchorage and navigation, with the
10 administrator of the environmental protection agency in the performance
11 of his or her duties, and with other governmental officials under the
12 federal clean water act; (h) requirements for inspection, monitoring,
13 entry, and reporting; (i) enforcement of the program through penalties,
14 emergency powers, and criminal sanctions; (j) a continuing planning
15 process; ~~((and))~~ (k) user charges; and (l) monthly late fees on
16 delinquent accounts, not to exceed a monthly amount of two percent of
17 the outstanding balance of the account, excluding penalty fees.

18 (2) The power to establish and administer state programs in a
19 manner which will insure the procurement of moneys, whether in the form
20 of grants, loans, or otherwise; to assist in the construction,
21 operation, and maintenance of various water pollution control
22 facilities and works; and the administering of various state water
23 pollution control management, regulatory, and enforcement programs.

24 (3) The power to develop and implement appropriate programs
25 pertaining to continuing planning processes, area-wide waste treatment
26 management plans, and basin planning.

27 The governor shall have authority to perform those actions required
28 of him or her by the federal clean water act.

1 **Sec. 3.** RCW 90.48.465 and 1989 c 2 s 13 are each amended to read
2 as follows:

3 (1) The department shall establish annual fees to collect expenses
4 for issuing and administering each class of permits under RCW
5 90.48.160, 90.48.162, and 90.48.260. An initial fee schedule shall be
6 established by rule within one year of March 1, 1989(~~(, and thereafter~~
7 ~~the fee schedule shall be adjusted no more often than once every two~~
8 ~~years))~~). This fee schedule shall apply to all permits, regardless of
9 date of issuance, and fees shall be assessed prospectively. All fees
10 charged shall be based on factors relating to the complexity of permit
11 issuance and compliance and may be based on pollutant loading and
12 toxicity and be designed to encourage recycling and the reduction of
13 the quantity of pollutants. Fees shall be established in amounts to
14 fully recover and not to exceed expenses incurred by the department in
15 processing permit applications and modifications, monitoring and
16 evaluating compliance with permits, conducting inspections, securing
17 laboratory analysis of samples taken during inspections, reviewing
18 plans and documents directly related to operations of permittees,
19 overseeing performance of delegated pretreatment programs, and
20 supporting the overhead expenses that are directly related to these
21 activities. The permit fee schedule in effect as of January 1, 1991,
22 shall not be adjusted until December 1992.

23 (2) The annual fee paid by a municipality, as defined in 33 U.S.C.
24 Sec. 1362, for all domestic wastewater facility permits issued under
25 RCW 90.48.162 and 90.48.260 shall not exceed the total of a maximum of
26 five cents per month per residence or residential equivalent
27 contributing to the municipality's wastewater system. The department
28 shall adopt by rule a schedule of credits for any municipality engaging
29 in a comprehensive monitoring program beyond the requirements imposed
30 by the department, with the credits available for five years from March

1 1, 1989, and with the total amount of all credits not to exceed fifty
2 thousand dollars in the five-year period.

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

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

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

15 (6) The department shall submit an annual report to the legislature
16 showing detailed information on fees collected, actual expenses
17 incurred, and anticipated expenses for the current and following fiscal
18 years.

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

22 NEW SECTION. **Sec. 4.** The senate commerce and labor committee
23 shall undertake an interim study reviewing the impact of government
24 regulation on small businesses in the state of Washington. The study
25 will particularly focus on those policy areas, identified by the
26 governor's small business improvement council, that are of particular
27 concern to the small business community. The committee staff will work
28 with the governor's small business improvement council in completing
29 this study. In addition, the use of the regulatory fairness act, in

1 effectively mitigating some of the effects of proposed policies on the
2 small business community, will also be reviewed.

3 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
4 preservation of the public peace, health, or safety, or support of the
5 state government and its existing public institutions, and shall take
6 effect immediately.