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ENGROSSED SUBSTITUTE HOUSE BILL 1236

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State of Washington

53rd Legislature

1993 Regular Session

By House Committee on Natural Resources & Parks (originally sponsored by Representatives Rust, Pruitt and Sheldon; by request of Department of Ecology)

Read first time 03/03/93.

1 AN ACT Relating to fees for water rights and related approvals;  
2 amending RCW 90.03.015 and 90.03.470; creating new sections; and  
3 declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that a water right  
6 confers significant economic benefits to the water right holder. The  
7 fees associated with acquiring a water right have not changed  
8 significantly since 1917. Water rights applicants pay less than two  
9 percent of the costs of the administration of the water rights program.  
10 The legislature finds that, since water rights are of significant  
11 value, water rights applicants should contribute more to the cost of  
12 administration of the water rights program.

13 The legislature also finds that an abrupt increase in water rights  
14 fees could be disruptive to water rights holders and applicants. The  
15 legislature further finds that water rights applicants have a right to  
16 know that the water rights program is being administered efficiently  
17 and that the fees charged for various services relate directly to the  
18 cost of providing those services.

1       Therefore, the legislature creates a task force to review the water  
2 rights program, to make recommendations for streamlining the  
3 application process and increasing the overall efficiency and  
4 accountability of the administration of the program, and to return to  
5 the legislature with a proposal for a fee schedule where the fee levels  
6 relate clearly to the cost of services provided.

7       **Sec. 2.** RCW 90.03.015 and 1987 c 109 s 65 are each amended to read  
8 as follows:

9       As used in this chapter:

10       (1) "Department" means the department of ecology;

11       (2) "Director" means the director of ecology; (~~and~~)

12       (3) "Person" means any firm, association, water users' association,  
13 corporation, irrigation district, or municipal corporation, as well as  
14 an individual;

15       (4) "Reservoir" means any water stored for a beneficial use held  
16 behind a dam or dike to a depth of ten feet or more at its deepest  
17 point, or of ten or more acre-feet of water. A reservoir is also a  
18 water holding impoundment adjacent to a stream channel when water will  
19 be required to fill it, if the water in the holding area is of a depth  
20 of ten feet or more at its deepest point or is of ten or more acre-  
21 feet; and

22       (5) "Short-term water use" means an emergency use of water or a  
23 nonrecurring temporary use of water for up to four months duration,  
24 with a possible extension of not more than four additional months upon  
25 approval by the department.

26       **Sec. 3.** RCW 90.03.470 and 1987 c 109 s 98 are each amended to read  
27 as follows:

28       The following fees shall be collected by the department in advance:

29       (1) For the examination of an application for permit to appropriate  
30 water or on application to change point of diversion, withdrawal,  
31 purpose or place of use, a minimum of ten dollars, to be paid with the  
32 application. For each second foot between one and five hundred second  
33 feet, two dollars per second foot; for each second foot between five  
34 hundred and two thousand second feet, fifty cents per second foot; and  
35 for each second foot in excess thereof, twenty cents per second foot.  
36 For each acre foot of storage up to and including one hundred thousand  
37 acre feet, one cent per acre foot, and for each acre foot in excess

1 thereof, one-fifth cent per acre foot. The ten dollar fee payable with  
2 the application shall be a credit to that amount whenever the fee for  
3 direct diversion or storage totals more than ten dollars under the  
4 above schedule and in such case the further fee due shall be the total  
5 computed amount less ten dollars.

6 Within five days from receipt of an application the department  
7 shall notify the applicant by registered mail of any additional fees  
8 due under the above schedule and any additional fees shall be paid to  
9 and received by the department within thirty days from the date of  
10 filing the application, or the application shall be rejected.

11 (2) For filing and recording a permit to appropriate water for  
12 irrigation purposes, forty cents per acre for each acre to be irrigated  
13 up to and including one hundred acres, and twenty cents per acre for  
14 each acre in excess of one hundred acres up to and including one  
15 thousand acres, and ten cents for each acre in excess of one thousand  
16 acres; and also twenty cents for each theoretical horsepower up to and  
17 including one thousand horsepower, and four cents for each theoretical  
18 horsepower in excess of one thousand horsepower, but in no instance  
19 shall the minimum fee for filing and recording a permit to appropriate  
20 water be less than five dollars. For all other beneficial purposes the  
21 fee shall be twice the amount of the examination fee except that for  
22 individual household and domestic use, which may include water for  
23 irrigation of a family garden, the fee shall be five dollars.

24 (3) For filing and recording any other water right instrument, four  
25 dollars for the first hundred words and forty cents for each additional  
26 hundred words or fraction thereof.

27 (4) For making a copy of any document recorded or filed in his  
28 office, forty cents for each hundred words or fraction thereof, but  
29 when the amount exceeds twenty dollars, only the actual cost in excess  
30 of that amount shall be charged.

31 (5) For certifying to copies, documents, records or maps, two  
32 dollars for each certification.

33 (6) For blueprint copies of a map or drawing, or, for such other  
34 work of a similar nature as may be required of the department, at  
35 actual cost of the work.

36 (7) For granting each extension of time for beginning construction  
37 work under a permit to appropriate water, an amount equal to one-half  
38 of the filing and recording fee, except that the minimum fee shall be  
39 not less than five dollars for each year that an extension is granted,

1 and for granting an extension of time for completion of construction  
2 work or for completing application of water to a beneficial use, five  
3 dollars for each year that an extension is granted.

4 (8) For the inspection of any hydraulic works to insure safety to  
5 life and property, the actual cost of the inspection, including the  
6 expense incident thereto.

7 (9) For the examination of plans and specifications as to safety of  
8 controlling works for storage of ten acre feet or more of water, a  
9 minimum fee of ten dollars, or the actual cost.

10 (10) For recording an assignment either of a permit to appropriate  
11 water or of an application for such a permit, a fee of five dollars.

12 (11) For preparing and issuing all water right certificates, five  
13 dollars.

14 (12) For filing and recording a protest against granting any  
15 application, two dollars.

16 The department shall provide timely notification by certified mail  
17 with return receipt requested to applicants that fees are due. No  
18 action may be taken until the fee is paid in full. Failure to remit  
19 fees within sixty days of the department's notification shall be  
20 grounds for rejecting the application or cancelling the permit. Cash  
21 shall not be accepted. Fees must be paid by check or money order and  
22 are nonrefundable.

23 For purposes of calculating fees for ground water filings, one  
24 cubic foot per second shall be regarded as equivalent to four hundred  
25 fifty gallons per minute.

26 NEW SECTION. Sec. 4. (1) There is created a water rights fees  
27 task force. The task force shall be comprised of fourteen members, who  
28 are appointed as follows:

29 (a) Two members of the Washington state house of representatives,  
30 one from each major caucus, to be appointed by the speaker of the house  
31 of representatives;

32 (b) Two members of the Washington state senate, one from each major  
33 caucus, to be appointed by the president of the senate;

34 (c) Ten members, to be appointed jointly by the speaker of the  
35 house of representatives and the president of the senate, to represent  
36 the following interests: Agriculture, aquaculture, business, cities,  
37 counties, the state department of ecology, environmentalists, water  
38 recreation interests, water utilities, and hydropower interests. The

1 task force may establish technical advisory committees as necessary to  
2 complete its tasks.

3 (2) The task force shall conduct a comprehensive review of water  
4 rights fees. The task force's tasks shall include but not be limited  
5 to:

6 (a) Identification of the costs associated with the various  
7 activities and services provided by the water rights program and  
8 examination of how these costs compare with the fees charged for these  
9 activities and services;

10 (b) Identification of appropriate accountability measures for the  
11 department of ecology to employ in administration of the water rights  
12 program. Recommendations of accountability requirements and  
13 measurements shall take into account the distinctive characteristics of  
14 the water rights program, that is, that the department receives a large  
15 number of applications on a one-time basis and that the department of  
16 ecology must meet its legal obligations under the doctrine of prior  
17 appropriation;

18 (c) Identification of which program activities should be eligible  
19 for cost recovery from fees, as well as which direct and indirect costs  
20 of program administration;

21 (d) Review of the application, examination, and water rights permit  
22 requirements for marine water users to determine if these users should  
23 receive special fee consideration;

24 (e) Review of the definition and treatment of nonconsumptive water  
25 uses to determine if special fee consideration should be given to these  
26 users;

27 (f) Review of the fees and accounting methods for the dam safety  
28 program;

29 (g) Identification of the appropriate distribution of  
30 responsibility between the applicant and the department of ecology for  
31 provision of technical information and analysis; and

32 (h) Establishment of a reasonable time framework for completion of  
33 new and pending water rights applications, and an analysis of the staff  
34 and funding levels required to meet the established time framework.

35 (3) Before December 1, 1993, the task force shall:

36 (a) Provide recommendations to the department of ecology on ways to  
37 improve the efficiency and accountability of the water rights program;

38 (b) Provide recommendations to the legislature on statutory changes  
39 necessary to make these efficiency and accountability improvements; and

1 (c) Propose a new fee schedule for the water rights program which  
2 incorporates the results of the task force's work and which funds  
3 through fees fifty percent of the cost of the activities and services  
4 provided by the program.

5 (4) The department of ecology and the legislature shall jointly  
6 provide for the staff support of the task force.

7 (5) The task force shall convene as soon as possible upon the  
8 appointment of its members. Task force members shall elect a chair and  
9 adopt rules for conducting the business of the task force. The task  
10 force shall expire on June 30, 1994.

11 NEW SECTION. **Sec. 5.** The legislature requests that, by July 1,  
12 1993, the department of ecology begin the rule-making process to adopt  
13 appropriate state policies on instream flow levels and hydraulic  
14 continuity. If the department is unable to develop consensus on these  
15 policies, the department shall provide to the appropriate legislative  
16 committees information on these two issue areas, data and documentation  
17 on work to date on establishing policies on these issues, and policy  
18 options for consideration by the legislature.

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

23 NEW SECTION. **Sec. 7.** If any provision of this act or its  
24 application to any person or circumstance is held invalid, the  
25 remainder of the act or the application of the provision to other  
26 persons or circumstances is not affected.

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