

# HOUSE BILL REPORT

## HB 2309

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**As Reported by House Committee On:**  
Appropriations

**Title:** An act relating to water right fees.

**Brief Description:** Modifying water right fees.

**Sponsors:** Representative Linville; by request of Office of Financial Management.

**Brief History:**

**Committee Activity:**

Appropriations: 3/29/05, 4/2/05 [DPS].

<p><b>Brief Summary of Substitute Bill</b></p> <ul style="list-style-type: none"><li>• Amends fees associated with acquiring or changing a water right.</li></ul>
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### HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 19 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Cody, Conway, Darneille, Dunshee, Grant, Haigh, Hinkle, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, McIntire, Miloscia, Schual-Berke and Walsh.

**Minority Report:** Do not pass. Signed by 9 members: Representatives Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Bailey, Buri, Clements, Pearson, Priest and Talcott.

**Staff:** Alicia Paatsch (786-7178).

**Background:**

Under the state Water Code, a person must have a water right for any use of surface water and for all but certain exempted withdrawals of groundwater. A water right is a legal right to use a specified amount of water for a beneficial purpose. The Water Rights Program in Washington is managed by the Department of Ecology (DOE).

The process of acquiring a water right involves a number of steps and the payment of several fees. These fees are established in statute and must be used exclusively for the purpose of carrying out the work and performing the functions of the DOE's division of water resources. An applicant files an application with DOE and pays a minimum examination fee of \$10 based on the amount of water involved in the project.

After its examination, the DOE makes a formal report of examination with a recommendation to either accept, deny, or condition the water right application. If a permit is to be issued, the applicant must pay a \$5 permit fee. The DOE then issues a permit, specifying a timetable for the applicant to meet in developing the water for a beneficial use. After the applicant has actually started using the water, the applicant sends in a certificate fee of \$5 and proof of appropriation, and the DOE issues the final water rights certificate. There are also fees associated with applying to change a point of diversion or place of use, asking for extensions for putting the water to beneficial use, and other services.

Fees were originally set in 1917 and have been subsequently adjusted over the years. The majority of the fees were last adjusted in 1951, when the minimum examination fee was increased from the 1917 fee of \$5 to the current fee of \$10. Other fees were adjusted in 1965 and 1987, and some fees were changed in 1993 on a temporary basis .

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### **Summary of Substitute Bill:**

Fees related to acquiring or changing a water right are amended. The following fees are increased to a minimum of \$50 for the following applications:

- permit to appropriate water;
- permit to store water;
- change in the point of diversion or withdrawal, place of use, or purpose of use;
- extension of time for beginning construction work under a permit;
- recording an assignment of either a permit to appropriate water or an application for such a permit;
- preparation of a certificate to appropriate water; and
- amendment of a water right claim.

An application fee of \$100 per cubic foot per second (cfs) applies to applications for a permit to appropriate water in an amount exceeding one-half cfs. For applications to change the point of diversion or withdrawal, place of use, or purpose of use, the total examination fee is assessed at the rate of \$50 per cfs. In addition to the specified applications, the \$50 change application fee applies to ground water permit changes, addition of points of withdrawal, and consolidation of one or more exempt groundwater rights with a groundwater permit, certificate or claim.

The fee to file and record a formal protest against granting a water right application is increased to \$50. No fee is required to submit comments regarding an application.

The number of times the DOE collects fees during the water right application process is reduced from three to two. Various fees for recording, copies of a water right, and other activities by the DOE are eliminated.

No fee is collected for an application to donate a trust water right to the state nor to process a change when the DOE acquires a trust water right for in-stream flows or other public purposes. In addition, a fee is not collected for drought-related water right changes.

**Substitute Bill Compared to Original Bill:**

Specifies the change fee applies only to the amount of water proposed for change (not the total amount of water reflected in the water right certificate or claim). Prohibits the Department of Ecology from imposing a fee for examining a change application filed with a water conservancy board or for reviewing a water conservancy board's record of decision. Reorganizes provisions and includes technical revisions.

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**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note is available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** We believe this program is a General Fund responsibility but there is a benefit to owning a water right; although, we do not believe that applicants should have to pay fees twice, such as conservancy boards. This is a meritorious bill. We did discover that General Fund support is the norm across western states. There was hope that increased fees would create more timely processing of water rights. This is a modest proposal as only one-half of a percent of the program costs would be covered by revenue from this bill. This bill is also modest compared to other states and modes for the Department of Ecology's program that has to deal with drought conditions, environmental needs and population demands. The bill just attempts to take care of the permit portion of DOE's program; we think the bill should look at annual fees like Alaska or cost recovery like California's program.

**Testimony Against:** The bill does not increase service or provide a benefit to farms from an increase in fees, which creates a difficult situation for farmers. The lack of fees for trust water transfers is not the best way to encourage farmers to give water to the state. We want to keep water in play as well to keep it available for farming.

**Persons Testifying:** (In support) Josh Baldi, Washington Environment Council; and Kathleen Collins, Washington Water Policy Alliance.

(Opposed) John Stuhlmiller, Farm Bureau.

**Persons Signed In To Testify But Not Testifying:** None.