

# HOUSE BILL REPORT

## EHB 3381

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### As Passed Legislature

**Title:** An act relating to fees to implement programs that protect and improve Washington's health, safety, education, employees, and consumers. .

**Brief Description:** Relating to fees to implement programs that protect and improve Washington's health, safety, education, employees, and consumers.

**Sponsors:** By Representative Sommers.

**Brief History:**

**Committee Activity:**

Appropriations: 3/7/08 [DPS].

**Floor Activity:**

Passed House: 3/10/08, 55-39.

Passed Senate: 3/12/08, 28-21.

Passed Legislature.

<h3>Brief Summary of Engrossed Bill</h3>
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| <ul style="list-style-type: none"><li>• Authorizes new or increased fees in specified state programs.</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 22 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Cody, Conway, Darneille, Ericks, Fromhold, Grant, Green, Haigh, Hunt, Hunter, Kagi, Kenney, Kessler, Linville, McIntire, Morrell, Pettigrew, Schual-Berke, Seaquist and Sullivan.

**Minority Report:** Do not pass. Signed by 11 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Anderson, Chandler, Kretz, McDonald, Priest, Ross, Schmick and Walsh.

**Staff:** Kristen Fraser (786-7148).

**Background:**

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Many state agency activities are supported by fee revenue. In contrast to taxes, which are charges levied for the general support of government, fees are typically part of a program that regulates a profession, industry, or activity, and they are intended to support the cost of administering that program. Examples of regulatory fees include license fees, inspection fees, and examination fees. Other types of fees are user fees, in which a person pays a charge for using a publicly-owned or publicly-provided service or facility. Examples of user fees are higher education tuition and state parks campsite fees. Some fees are established in statute by the Legislature. In other cases, the Legislature has delegated to state agencies the ability to establish fees and to determine the amounts of those fees. For example, the Legislature has delegated to the Department of Licensing (DOL) the authority to license and regulate various business and occupations, and it has directed the DOL to establish fees for each profession at a level sufficient to defray the costs of administering that program. State law limits agencies' ability to increase fees. Initiative 601, adopted in 1993, prohibited state agencies from raising fees in excess of the fiscal growth factor without prior legislative approval. Initiative 601 did not apply to the creation of new fees. In 2007, Initiative 960 modified fee increase restrictions to prohibit state agencies from imposing new fees or increasing fees by any amount without prior legislative approval. In addition, bills that authorize fee increases or new fees are subject to Initiative 960's publicity and projection provisions, under which the Office of Financial Management must provide public notice of the legislation, along with 10-year projections of the estimated cost to taxpayers.

#### Department of Labor and Industries

##### *Prevailing Wage Program*

State law requires employers to pay workers on all public works contracts and public building service maintenance contracts at least the prevailing wage. The Department of Labor and Industries (L&I) enforces the prevailing wage program. In statute, the fees charged by L&I for approving statements of intent to pay prevailing wages and certification of affidavits of wages are capped at \$25.00. These fees are deposited in the Public Works Administration Account.

##### *Factory Assembled Structures and Mobile/Manufactured Homes*

The Department of L&I is authorized to enforce safety standards for structures such as manufactured homes, mobile homes, conversion vending units, etc. A statute authorizes L&I to charge fees for the cost of administering this program. These fees are deposited in the General Fund-State. The Department of L&I was authorized to adopt temporary rules that decreased some fees and increased other fees until April 1, 2009, with a new fee schedule to be adopted effective the date that restored the prior schedule, adjusted by fiscal growth factors not applied during the period of the temporary fee schedule.

##### *Explosives*

The Department of L&I regulates and licenses the manufacture, purchase, sale, use, and storage of explosives. Annual minimum and maximum for these licenses are established in statute. The minimum fees range from \$5 to \$25 and the maximums from \$15 to \$100.

#### Department of Health

### *Health Professions*

The Department of Health (DOH) and the 16 health professions boards and commissions license and regulate numerous health professions. Licensing fees are deposited in the Health Professions Account. In the 2008 legislative session, the Legislature passed Fourth Substitute House Bill 1103 (health professions), which makes numerous changes to the health professions regulatory process, including changes to disciplinary procedures and new requirements for background checks for license applicants.

### *Radiology Assistants*

In the 2008 legislative session, the Legislature passed Substitute House Bill 6439, which establishes the new health profession of radiology assistants as a fourth category of radiologic technologists certified and regulated by the DOH.

### Department of Agriculture

#### *Pesticide Management*

The Department of Agriculture (DOA) administers a pesticide management program (program), along with associated licensing and registration. The program encompasses several types of pesticide licenses. Fees for licenses and registrations are established in statute. Revenues from these fees are deposited into the pesticide sub-account in the Agricultural Local Account.

#### *Animal Inspection*

The DOA administers an animal health program to prevent the introduction and spread of contagious, communicable, or dangerous diseases affecting animals.

### Department of Licensing

The Department of Licensing (DOL) licenses and regulates bail bond agents and agencies, and bail bond recovery agents. Fees for these activities are deposited in the Business and Professions Account. In the 2008 session, the Legislature passed Engrossed Substitute Senate Bill 6437, which establishes additional requirements for bail bond recovery agents, including additional training and notification requirements.

### Department of Financial Institutions

The Department of Financial Institutions (DFI) regulates banks chartered in this state. The DFI must collect the estimated actual cost of any examination of a bank. The DFI regulates credit unions chartered in this state. The DFI may assess credit unions in order to cover the costs of the regulatory oversight. Mortgage brokers are licensed by the DFI under the Mortgage Broker Practices Act (Chapter 19.146 RCW). Mortgage brokers are charged licensing fees and fees for any branch office. All fees received by the DFI (except for fees received by the division of securities) are deposited into the Financial Services Regulation Fund.

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### **Summary of Engrossed Bill:**

The Legislature finds that regulatory programs to protect health, safety, employees, and consumers may require that the cost of those programs be borne by the regulated industry or profession rather than the taxpayers as a whole. The Legislature authorizes certain new fees and fee increases.

#### Department of Labor and Industries

##### *Prevailing Wage Program*

The maximum fee that L&I may charge for approving statements of intent to pay prevailing wages and certification of affidavits of wages is increased to \$40.00.

##### *Factory Assembled Structures and Mobile/Manufactured Homes*

In the factory assembled structures program, the authority of L&I to adopt a temporary fee schedule and the requirement to adopt the prior fee schedule, adjusted by the fiscal growth factor, are deleted. The Department of L&I is authorized to adopt fees to cover costs incurred in administration of the program. The Department of L&I may use these fees only for purposes of this particular program.

##### *Explosives*

The statutory minimum fees for explosives licenses are increased to \$25 and \$50 and the maximum fees are increased to \$100-\$400. License fees and criminal history check fees must be deposited in the accident and medical aid funds rather than the General Fund.

#### Department of Health

##### *Health Professions*

The DOH is authorized to increase application and renewal fees as necessary to recover the cost of implementing the disciplinary and administrative provisions of 4SHB 1103. The DOH is also authorized to establish new fees as necessary to recover the cost of background check activities required by section 7 of 4SHB 1103.

##### *Radiology Assistants*

The DOH is authorized to establish fees for application, certification, and certification renewal for radiology assistants.

#### Department of Agriculture

##### *Pesticide Management*

Various pesticide licensing and registration fees are increased in statute.

##### *Animal Inspection*

The DOA is authorized to establish fees for the establishment and inspection of animal holding facilities and the inspection and monitoring of animals in these facilities, and special inspections of animals or animal facilities that the director may provide at the request of the animal owner or interested persons. The fees will be established to cover the cost of the services provided and must be deposited in the Agricultural Local Fund.

#### Department of Licensing

*Bail Bond Agents and Bail Bond Recovery Agents*

The DOL is authorized to increase licensing fees as needed to defray the cost of implementing ESSB 6437 (bail bond recovery agents).

Department of Financial Institutions

The Department of Financial Institutions is authorized to increase specified fees pertaining to credit unions, banks, loan originators, and mortgage brokers.

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**Appropriation:** None.

**Fiscal Note:** Requested.

**Effective Date:** The bill contains an emergency clause and takes effect immediately, except for section 2, which takes effect July 1, 2008, and sections 15 through 26, which take effect January 1, 2009.

**Staff Summary of Public Testimony:**

(In support) Approving the animal inspection fee is important. The mixed waste management fee increase is crucial to the Hanford clean-up.

The Department of Licensing (DOL) appreciates the authorization to increase fees in the bail bond recovery agents. Please approve other fee increases for the DOL. Fraud was found in the private third party tester program for truck drivers, and the DOL needs the skills testing fee to protect the public. Other programs crucial to public safety and protecting consumers are security guard and real estate appraiser licensing.

The labor and industry representatives of the Public Works Advisory Committee support the increase in fees for filing the intent statements and affidavits of wages under the prevailing wage program. The program hasn't seen a fee increase for 15 years and this is impairing the Department of Labor and Industries (L&I) ability to enforce the prevailing wage laws.

Please support the fee increase for the prevailing wage intent statements and wage affidavits. The Public Works Advisory Committee supports this increase to fund enforcement and the Department of L&I's responsibilities.

Fee increases are needed to maintain services performed by the Department of Ecology (DOE). The DOE fees are critical for the Hanford clean-up. The dam inspection and construction permit fees are also important – we haven't had a dam failure and we want to keep it that way.

Please support fee increases to fund background checks and other activities related to real estate licensure as approved by the Legislature in SHB 2778.

Please support the fee increases in the pesticide licensing and registration program. This program is funded by fees and has not seen an increase in 11 years. The Department of Agriculture needs these fees to keep agriculture productive.

Please support the increases to pesticide licensing and registration fees.

Community banks support the Department of Financial Institution's (DFI) fee increase – the increase is needed to support the DFI's mission. Please authorize a fee increase for the Christmas tree growers.

The Department of Labor & Industries (L&I) supports the sections that authorize fee increases in the prevailing wage, factory assembled structures, and explosives programs. Other fees collected by L&I are also important, including the boiler and plumbers' programs. These fees protect public safety.

(In support with concerns) Under I-960, all fee increases require legislative approval. The list of fees the committee is considering is very small compared to the list of fee increases that require approval. The Office of Financial Management received a list of over 390 agency fees that require legislative approval in order to be increased. Absent approval for these increases, agencies will have insufficient revenue and won't be able to maintain their activities to protect public health and safety.

The Gambling Commission (Commission) is a self-funded law enforcement agency that sets fees as necessary to implement the costs of its program. The Commission can no longer absorb these costs. Before 2007 the Commission had not increased fees for five years. Stakeholders do not oppose the Commission's proposal to increase fees. If the increases are not approved, the Commission's law enforcement activities will suffer.

The University of Washington faculty support the amendment to authorize tuition and fee increases as previously authorized in law. The faculty support moderate and well-planned tuition increases.

The Department of Financial Institutions (DFI) operates from a dedicated, non-appropriated, fee-based account. Work in the mortgage broker program has increased due to the subprime lending crisis. The only comment from stakeholders about our fees is that they are not high enough. The credit unions program within the DFI last received a fee increase in 2002 and an increase is needed to continue this crucial work.

Please include the two-year higher education institutions request for authority to increase tuition and fees. Our biennial budget plans assume these increases that were previously authorized in the budget bill. If the State Board for Community and Technical Colleges and the colleges are unable to achieve these increases, it will harm the ability to respond to employers by helping provide skilled employees.

The Legislature authorized licensure for athletic trainers last year, and the Department of Health's ability to establish a license fee schedule was caught up in the I-960 issue. Please authorize these new fees.

Please support the amendment to add authority to increase fees for dental assistants. The Department of Health needs this increase to go forward with the program

Thank you for the authorization to increase fees in the Department of Health (DOH) to implement 4SHB 1103. The DOH needs additional approval to exercise its fee-setting authority that is already in statute for health professions. In addition, the DOH needs authority to increase fees for certifying facilities such as in-home services and residential treatment – the DOH needs to conduct these certifications to comply with federal Medicaid law. The DOH also inspects devices such as X-ray machines and radioactive devices. The DOH's ability to protect the public is impaired without authorization to increase these fees.

Please support the amendment to add physical therapist licensing fees. Without these fees, the licensing program won't provided the intended public protection.

(With concerns) The Solicitor General has advised higher education institutions that the previously approved tuition and fee increases must be re-authorized. There is a long list of these fees because higher education has many fee-supported services and activities.

Please add higher education tuition and fees to the bill. Student fees need to grow to support important services such as child care centers and health services. The institutions have increased fees responsibly and haven't always used all the increase authority they have been given. Course and workshop fees are important – Washington State University could not start up the executive MBA program without an authorization to increase fees.

Eastern Washington Univeristy's main concern is realizing the 5 percent tuition increase that was previously authorized..

Please authorize higher education fee increases. The institutions should have the authority to collect fees approved by student leadership.

Higher education institutions plan on an academic year, not a fiscal year, and they thought that the previously authorized tuition increase authority was sufficient. These previously authorized increases are needed to fund collective bargaining agreements. Also, many higher education programs are fee-based. The aviation program is one of just a few west of the Mississippi and relies on fee support. Please pass the amendment supported by the Council of Presidents.

Increases for higher education tuition and fees are very important. Please pass the amendment supported by the Council of Presidents.

Western Washington University would face cuts if the previously approved tuition increases were not approved; debt service would be affected. Summer session is self-supported and a fee increase is needed to fund it. Please support authorization for tuition and fee increases.

Microsoft supports the Council of Presidents' amendment to add authorization to increase higher education tuition and fees.

**Persons Testifying:** (In support) Mary Beth Lang, Department of Agriculture; Sharon Whitehead, Department of Licensing; Jim Jessernig, Washington State Potato Commission and Agri Beef Company; Brad Tower, Community Bankers of Washington; Rick Slunaker, Associated General Contractors; Dan Coyne, Far West Agribusiness and Crop Life America-Responsible Industry for a Sound Environment; Jay Manning, Director, Department of Ecology; Patrick Woods, Department of Labor and Industries; Bob Mitchell, Washington Realtors; and Dave Johnson, Washington State Building and Trades Council.

(In support with concerns) Deborah Bortner, Linda Jekel, and Brad Williamson, Department of Financial Institutions; Terry Westhoff, Washington State Gambling Commission; J. W. Harrington, University of Washington; Mary Selecky, Secretary, Department of Health; Victor Moore, Director, Office of Financial Management; Chris Cheney, Washington Dairy Federation, Washington Fryer Commission and Hop Growers of Washington; Charlie Brown, Washington State Athletic Trainers Association; Melissa Johnson, Physical Therapy Association; Charlie Earl, State Board for Community and Technical Colleges; and David Michener, Washington State Dental Association.

(With concerns) Ann Anderson, Central Washington University; David Buri, Eastern Washington University; Greg Pierce, Microsoft; Terry Teale, Council of Presidents; Randy Hodgins, University of Washington; Sarah Ishmael, Washington Student Lobby; Sherry Burkey, Western Washington University; and Larry Ganders, Washington State University.

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