

HOUSE BILL REPORT

SB 5585

As Reported by House Committee On:
Environment & Energy

Title: An act relating to setting domestic wastewater discharge fees.

Brief Description: Setting domestic wastewater discharge fees.

Sponsors: Senators Rolfes and Das; by request of Department of Ecology.

Brief History:

Committee Activity:

Environment & Energy: 2/18/22, 2/22/22 [DPA].

Brief Summary of Bill
(As Amended By Committee)

- Removes the annual cap on fees established by the Department of Ecology (Ecology) and charged to municipalities for wastewater facility permits.
- Creates an advisory committee to provide recommendations to Ecology for adjusting wastewater facility permit fees charged to municipalities by December 31, 2022, and requires Ecology to present these recommendations to the Legislature before the end of the 2023 legislative session.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

Majority Report: Do pass as amended. Signed by 8 members: Representatives Fitzgibbon, Chair; Duerr, Vice Chair; Berry, Fey, Harris-Talley, Ramel, Shewmake and Slatter.

Minority Report: Do not pass. Signed by 5 members: Representatives Dye, Ranking Minority Member; Klicker, Assistant Ranking Minority Member; Abbarno, Boehnke and

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

Goehner.

Staff: Megan McPhaden (786-7114).

Background:

Wastewater Discharge Permits and Fees.

The Department of Ecology (Ecology) has delegated authority from the United States Environmental Protection Agency to carry out the federal Clean Water Act in Washington. As part of this responsibility, Ecology issues required National Pollutant Discharge Elimination System (NPDES) wastewater discharge permits, except for federally owned facilities and for permits on tribal lands. National Pollutant Discharge Elimination System permits regulate discharges to surface water from commercial industry or publicly owned treatment works, also referred to as municipal wastewater treatment facilities. The wastewater discharge permits administered by Ecology place limits on the quantity and concentrations of contaminants that may be discharged. The permits may also require wastewater treatment or impose operating or other conditions, including monitoring, reporting, and spill prevention planning.

Ecology establishes fees for several types of permits for discharging waste into state waters, including for:

- commercial and industrial operations;
- counties, municipalities, or public corporations operating or proposing to operate sewage systems; and
- the NPDES program, including municipal wastewater treatment facilities.

These permit fees may not be adjusted more than once every two years, and are intended to cover, but not exceed, Ecology's costs related to administering permits and ensuring permitted facilities are in compliance with their wastewater discharge pollution limits. Ecology must consider the economic impact of fees on small dischargers and must provide appropriate adjustments when establishing fees. Ecology must present a biennial progress report on the use of permit fees to the Legislature, due on December 31 of odd-numbered years.

Permit fees for municipalities to discharge waste from wastewater treatment facilities or sewage systems are capped at 18 cents per month per residence or residential equivalent contributing to a municipality's wastewater system. This fee cap was first established in 1989 at 5 cents, increased to 15 cents in 1991, and then to 18 cents in 2009.

Summary of Amended Bill:

Municipal Wastewater Treatment and Discharge Permit Fees.

The permit fee cap for municipalities to discharge waste from wastewater treatment

facilities or sewage systems into state waters is removed.

Advisory Committee to Recommend Permit Fee Updates.

Ecology must form an advisory committee to recommend adjustments to the fee schedule for municipal, county, and public corporation permits for sewage systems and water treatment facilities that discharge waste into state waters. Members of the advisory group are appointed by the Director of Ecology or the Director's designee and include representatives from permitted facilities of three different sizes, nonprofit environmental organizations, and statewide associations representing cities, counties, businesses, and special purpose districts with responsibilities for domestic wastewater. Ecology must offer tribal consultation and invite federally recognized tribes to participate on the advisory committee.

The advisory committee must submit a report with their recommendations to Ecology by December 31, 2022. The report must:

- recommend fees needed to fully cover the expenses incurred by Ecology from administering water quality permits;
- assess municipal wastewater permitting backlogs and permit workloads;
- assess staffing and revenue needed to meet state and federal legal mandates and the needs of permittees; and
- recommend how to structure the permit fees to reduce permitting backlogs and achieve goals for issuing permits in a timely manner.

Ecology must use the recommendations provided by the advisory committee as the basis, in a manner consistent with the Administrative Procedure Act, for its 2023 updates to the water quality permit fees. Ecology must present these recommendations to the Legislature at some point once they become available through the 2023 legislative session.

The advisory committee and its requirements expire on January 1, 2024.

Ecology must include the following in its biennial progress report to the Legislature on the use of permit fees: (1) information on the implementation of a revised fee structure for municipal wastewater discharge permits; and (2) information demonstrating progress towards goals for reducing wastewater discharge permit backlogs to no more than 40 percent by July 2025, and no more than 20 percent by July 2027.

Amended Bill Compared to Original Bill:

The amended bill compared to the original bill:

- adds two representatives to the advisory committee:
 - one from a permitted facility serving more than 200,000 people; and
 - one from a statewide association representing special purpose districts with responsibilities for domestic wastewater;
- requires that Ecology offer tribal consultation and invite federally recognized tribes to

- participate on the advisory committee;
- clarifies that the goal of the advisory committee's task to recommend a permit fee structure is to reduce permitting backlogs and issue permits in a timely manner;
- requires Ecology to present the recommendations to the Legislature through the 2023 legislative session;
- clarifies that when Ecology uses the recommendations as the basis of its 2023 permit fee updates, Ecology must do this in a manner consistent with the Administrative Procedures Act; and
- requires that Ecology's biennial progress report on the use of permit fees include:
 - information on the implementation of a revised fee structure for municipal wastewater discharge permits; and
 - information demonstrating progress towards goals for reducing the wastewater discharge permit backlogs.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 22, 2022.

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

Staff Summary of Public Testimony:

(In support) The current cap on permit fees prevents Ecology from providing the support that utilities need to serve their communities, from securing financing for infrastructure investments, to expanding their systems to support growth. The fee cap has resulted in a gap of \$2 million per year between the fees collected and the costs to support the permit program. Removing the cap on permit fees will ensure Ecology has the resources to help treatment plants keep their permits up to date and to approve engineering designs, which are frequently preconditions for the plants to receive funding for necessary upgrades. It will also allow Ecology to adequately implement the new Puget Sound Nutrient General Permit and only utilities discharging to Puget Sound would pay for Ecology's support and oversight of this new general permit.

The purpose of the cap was to ensure affordability to ratepayers. Removing it will result in a significant fee increase, but sewer and water districts are supportive because they believe this will allow Ecology to have the staff necessary to process fees in a timely manner. The existing fee is related to less than 1 percent of a customer's utility bill, and that shouldn't change. The cost to operate, maintain, and update facilities is the bulk of a utility's rate structure. Allowing Ecology to update permits to support infrastructure investments offsets costs to ratepayers. There should be performance metrics for the fee increase. The advisory committee would design a fee structure through an open and equitable process, which would then be established through rule making.

(Opposed) None.

(Other) There is support for this bill. It is recognized that permit fees are required to cover the costs of administering the program, and a workload base model is a common approach for other user pay environmental permitting programs. There is special appreciation for establishing the advisory committee to review the permit fee program and make recommendations so Ecology can raise revenue to administer the program and move towards fee restructuring.

Persons Testifying: (In support) Vince McGowan, Department of Ecology, Water Quality Program; Scott Hazlegrove, Washington Association of Sewer and Water Districts; and Don Gourlie, Puget Sound Partnership.

(Other) Jessica Spiegel, Western States Petroleum Association.

Persons Signed In To Testify But Not Testifying: None.