

HOUSE BILL REPORT

HB 1851

*As Reported By House Committee on:
Revenue*

Title: An act relating to the Department of Ecology's fees and penalties concerning water rights.

Brief Description: Increasing fees and penalties related to the administration of the Department of Ecology's water resources program.

Sponsor(s): Representatives Wang and Holland; by request of Department of Ecology and Office of Financial Management.

Brief History:

Reported by House Committee on:
Revenue, March 6, 1991, DPS.

**HOUSE COMMITTEE ON
REVENUE**

Majority Report: *That Substitute House Bill No. 1851 be substituted therefor, and the substitute bill do pass.*
Signed by 8 members: Representatives Wang, Chair; Fraser, Vice Chair; Appelwick; Belcher; Day; Leonard; Phillips; and Rust.

Minority Report: *Do not pass.* Signed by 6 members: Representatives Holland, Ranking Minority Member; Wynne, Assistant Ranking Minority Member; Brumsickle; Morris; Morton; and Van Luven.

Staff: Robin Appleford (786-7093).

Background: The Department of Ecology's water resources program processes applications and permits for the use of water, and makes a final certification that there is an adequate water supply. Ecology charges fees for the various stages of processing a water right. The fees are currently set in statute, and most have not been changed in recent years. Fees collected from the water resources program are deposited in the General Fund-State and the program receives an appropriation from the General Fund-State. Penalties for violations of water rights laws may not exceed \$100 per day.

Summary of Substitute Bill: Fees for performing the various functions of the water rights program are increased and are

determined by Department of Ecology rule instead of by statute. The new fee schedule does not apply to application fees for currently complete applications and complete applications submitted to Ecology before January 1, 1992. However, the new schedule applies both to existing and new applications for permits and certification. The fees are to be based on the cost to the department of processing applications and permits, and certification of adequate water supply. Fees must be adjusted biennially to match appropriations for the water resources program, and may not be used to cover costs of enforcement. No more than 18 percent of the fees collected may be used for administrative overhead. The department must submit a report to the appropriate committees of the legislature in November of each even-numbered year outlining the costs of processing water right applications.

The department must convene and consult with a water right fee committee to review proposed fees. The committee is to consist of representatives from the department, appropriate state agencies and local governments, and interested parties including utilities, and agricultural, environmental, and business interests.

The department is required to notify any applicant of the new fee schedule and allow a response time of 150 days before cancelling the application for a water right. Applicants must receive a report on the status of their applications no later than nine months after submitting a completed application.

Civil penalties for violations of water right laws are to be determined by rule. Violations are divided into two categories: minor and significant. Penalties for minor violations are to be greater than \$100 but not greater than \$500. Penalties for significant violations are to be greater than \$500 but not greater than \$5,000. A 25 percent surcharge is assessed on the application and permit fees of applicants using water without prior approval of the department.

Substitute Bill Compared to Original Bill: Language is added establishing a fee advisory committee, requiring a report to the Legislature, requiring longer response time for applicants whose water right application is to be cancelled, requiring status reports, and prohibiting the department from using fees to cover the cost of enforcement. Currently complete applications and complete applications submitted to Ecology before January 1, 1992 are excluded from the application fee increases. The percentage of fees collected that may be used for administrative overhead is

increased from 2 percent to 18 percent. Various accountability requirements are added.

The penalties are changed from \$5,000 a day to penalties ranging from \$100 to \$5,000, depending on the type of infraction. An effective date is added.

Fiscal Note: Requested February 20, 1991.

Effective Date of Substitute Bill: The bill takes effect immediately, except Section 5, which takes effect January 1, 1992.

Testimony For: The Department of Ecology needs this legislation to respond to the backlog in processing water rights applications. The fees need to be increased to cover the costs of the water resources program, since they have not been increased for many years.

Testimony Against: The Department of Ecology should not have broad fee setting authority. The department will become too independent and will not be accountable to the Legislature.

Witnesses: Hedia Adelsman, Department of Ecology: supports. Kathleen Collins, Association of Washington Business; and Marlyta Deck, Washington Cattlemen's Association: opposes.