

HOUSE BILL REPORT

ESHB 1089

As Amended by the Senate

Title: An act relating to fee structures of the air quality stationary source permit programs.

Brief Description: Changing air quality operating permit requirements.

Sponsors: By House Committee on Environmental Affairs (originally sponsored by Representatives J. Kohl, Horn, Rust and Pruitt; by request of Department of Ecology).

Brief History:

Reported by House Committee on:
Environmental Affairs, February 22, 1993, DPS;
Revenue, March 5, 1993, DPS(ENA-A REV);
Passed House, March 13, 1993, 84-13;
Amended by Senate.

HOUSE COMMITTEE ON ENVIRONMENTAL AFFAIRS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Rust, Chair; Flemming, Vice Chair; Horn, Ranking Minority Member; Bray; Foreman; Holm; L. Johnson; J. Kohl; and Linville.

Minority Report: Do not pass. Signed by 4 members: Representatives Van Luven, Assistant Ranking Minority Member; Edmondson; Hansen; and Sheahan.

Staff: Rick Anderson (786-7114).

HOUSE COMMITTEE ON REVENUE

Majority Report: The substitute bill by Committee on Environmental Affairs be substituted therefor and the substitute bill as amended by Committee on Revenue do pass. Signed by 12 members: Representatives G. Fisher, Chair; Holm, Vice Chair; Foreman, Ranking Minority Member; Anderson; Brown; Cothorn; Leonard; Morris; Romero; Rust; Talcott; and Thibaudeau.

Minority Report: Do not pass. Signed by 2 members: Representatives Fuhrman, Assistant Ranking Minority Member; and Van Luven.

Staff: Keitlyn Watson (786-7310).

Background: The 1990 Federal Clean Air Act amendments require states to develop a renewable permitting program for "major" sources of air pollution. Major sources are defined as those sources capable of emitting 100 tons per year of a regulated pollutant; 10 tons per year of a single toxic pollutant; or 25 tons per year of multiple toxic pollutants. Federal law requires states to establish a fee structure that covers the direct and indirect costs of the permitting program.

The 1991 Washington State Clean Air Act established a five year renewable operating permit system consistent with the 1990 federal act. Under the state act, existing major sources are required to meet emission limitations through a level of air pollution control technology known as "RACT" (Reasonably Available Control Technology). The definition of RACT does not include any specific standards but does require consideration of a number of economic and environmental factors in establishing emission limits. New major sources are required to meet control technology requirements that are more stringent than RACT.

The 1991 Legislature established an interim fee of \$10 per ton on major sources of air pollution. The interim fee is used by ecology and local air pollution control authorities to develop the permitting program. The 1991 Legislature also directed ecology to make recommendations to the 1993 Legislature for a permanent fee structure for operating permits.

The 1991 state act did not alter the authority of local air authorities and ecology to register all pollution sources, to review and regulate new sources of pollution to prevent deterioration of existing air quality, or to impose RACT technology requirements.

Summary of Bill: The bill establishes fee structures for four regulatory activities: Registration, new source review, air operating permits, and control technology review. Fees for each of the activities are to be based on ecology's workload during the biennium. The bill defines direct and indirect costs that can be recovered through air operating permit fees. Several accountability provisions are established to ensure that the department is accountable to those paying the fees. These accountability provisions include establishing zero-based budgeting procedures,

requiring ecology to submit its biennial budget for each of the four fee programs to public review and comment prior to legislative review, requiring ecology to track operating fee expenditures and revenues for the operating permit fees, and to perform periodic fiscal and performance audits.

The direct and indirect costs of the operating permit fee will be assessed to a major source based on three criteria: 1) the number of major sources; 2) the complexity of those sources; and 3) the quantity of pollutants emitted by the sources.

By January 1, 1994, ecology must develop a schedule identifying the frequency with which permitted facilities will be subject to a RACT review. The schedule must be reviewed at least every five years.

EFFECT OF SENATE AMENDMENT(S): A provision is added clarifying that Ecology cannot prohibit large coal-fired electric generating plants from selling sulfur dioxide pollution credits.

The department is required to submit a report on the need to develop an alternative fee schedule for those sources of industrial air pollution that become subject to permit fees after the effective date of this act.

A provision is deleted that may authorize the department to establish new control technology requirements when the department issues an operating permit.

Fiscal Note: Available. New fiscal note requested March 6, 1993.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: (Environmental Affairs): The bill is necessary to allow the Department of Ecology and local air authorities to implement the air permit program required by federal law in a timely manner. The bill implements provisions that will provide accountability in ecology's fee-setting processes. Local authorities need greater flexibility in when they collect fees to avoid cash flow problems.

(Revenue): Passage of this bill will help achieve clean air in Washington. Federal law requires that fees pay for the costs of administering the air operating permits. The fee eligible costs in the bill were developed in an intensive process. Fees established will be workload driven, and this

is an innovative approach to setting fees. This bill could serve as a model for future fee legislation.

Testimony Against: (Environmental Affairs): None.

(Revenue): None.

Witnesses: (Environmental Affairs): Jim Nolan, Puget Sound Air Pollution Control Agency (pro); Janet Chalupnik, Clean Air Coalition (pro); Bruce Wishart, Sierra Club (pro); Anne Robison, League of Women Voters (pro); David Smnkowski, The Boeing Company (pro); Bill Kidd, ARCO (pro); Kris Backes, Association of Washington Business (pro); Llewellyn Matthews, Northwest Pulp and Paper (pro); Terry Nyman, Northwest Air Pollution Authority (pro); and Charles Peace, Olympic Air Pollution Control Authority (pro).

(Revenue): Representative Jeanne Kohl, prime sponsor (pro); Kris Backes, Association of Washington Business (pro); Anne Robison, League of Women Voters (pro); Joe Williams and Dave Bradley, Department of Ecology (pro); and Bruce Wishart, Sierra Club (pro).

VOTE ON FINAL PASSAGE:

Yeas 84; Nays 13; Excused 1

Nays: Representatives Chandler, Edmondson, Fuhrman, Hansen, Lisk, Mielke, Morton, Padden, Schoesler, Sheahan, Silver, Stevens, Van Luven

Excused: Representative Leonard