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SENATE BILL 6646

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State of Washington                      55th Legislature                      1998 Regular Session

By Senators Finkbeiner and Jacobsen; by request of Department of Health

Read first time 01/26/98. Referred to Committee on Energy & Utilities.

1            AN ACT Relating to revision of public water systems fees; amending  
2 RCW 70.119A.110; and creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            NEW SECTION.    **Sec. 1.** The legislature finds and declares that:

5            (1) The provision of safe and reliable water supplies to the people  
6 of the state of Washington is fundamental to ensuring public health and  
7 continuing economic vitality of this state.

8            (2) The existing water system fee structure contains inequities and  
9 multiple fees that must be revised to provide predictability and  
10 fairness to the industry, stability for program operations, and  
11 incentives for voluntary compliance.

12            (3) The department of health, pursuant to legislative directive in  
13 1995, has provided a report that incorporates the findings and  
14 recommendations of the water supply advisory committee as to progress  
15 in meeting the objectives of the public health improvement plan,  
16 changes warranted by the recent congressional action reauthorizing the  
17 federal safe drinking water act, new approaches to providing services  
18 under the general principles of regulatory reform, and the adequacy and

1 necessity of current and prospective funding. Revision of the  
2 operating permit fee is a recommendation of the committee.

3 **Sec. 2.** RCW 70.119A.110 and 1991 c 304 s 5 are each amended to  
4 read as follows:

5 (1) No person may operate a group A public water system unless the  
6 person first submits an application to the department and receives an  
7 operating permit as provided in this section. A new application must  
8 be submitted upon any change in ownership of the system. Any person  
9 operating a public water system on July 28, 1991, may continue to  
10 operate the system until the department takes final action, including  
11 any time necessary for a hearing under subsection (3) of this section,  
12 on a permit application submitted by the person operating the system  
13 under the rules adopted by the department to implement this section.

14 (2) The department may require that each application include the  
15 information that is reasonable and necessary to determine that the  
16 system complies with applicable standards and requirements of the  
17 federal safe drinking water act, state law, and rules adopted by the  
18 department or by the state board of health.

19 (3) Following its review of the application, its supporting  
20 material, and any information received by the department in its  
21 investigation of the application, the department shall issue or deny  
22 the operating permit. The department shall act on initial permit  
23 applications as expeditiously as possible, and shall in all cases  
24 either grant or deny the application within one hundred twenty days of  
25 receipt of the application or of any supplemental information required  
26 to complete the application. The applicant for a permit shall be  
27 entitled to file an appeal in accordance with chapter 34.05 RCW if the  
28 department denies the initial or subsequent applications or imposes  
29 conditions or requirements upon the operator. Any operator of a public  
30 water system that requests a hearing may continue to operate the system  
31 until a decision is issued after the hearing.

32 (4) At the time of initial permit application or at the time of  
33 permit renewal the department may impose such permit conditions,  
34 requirements for system improvements, and compliance schedules as it  
35 determines are reasonable and necessary to ensure that the system will  
36 provide a safe and reliable water supply to its users.

37 (5) Operating permits shall be issued for a term of one year or  
38 more, and shall be renewed (~~annually~~) periodically, unless the

1 operator fails to apply for a new permit or the department finds good  
2 cause to deny the application for renewal.

3 (6) Each application shall be accompanied by ~~((an annual))~~ a fee.  
4 The fee must be paid by the system before or at the time an operating  
5 permit is issued and shall be calculated on an annual basis as follows:

6 (a) ~~((The annual fee for public water supply systems serving~~  
7 ~~fifteen to forty nine service connections shall be twenty five dollars.~~

8 (b) ~~The annual fee for public water supply systems serving fifty to~~  
9 ~~three thousand three hundred thirty three service connections shall be~~  
10 ~~based on a uniform per service connection fee of one dollar and fifty~~  
11 ~~cents per service connection.~~

12 (c) ~~The annual fee for public water supply systems serving three~~  
13 ~~thousand three hundred thirty four to fifty three thousand three~~  
14 ~~hundred thirty three service connections shall be based on a uniform~~  
15 ~~per service connection fee of one dollar and fifty cents per service~~  
16 ~~connection plus ten cents for each service connection in excess of~~  
17 ~~three thousand three hundred thirty three service connections.~~

18 (d) ~~The annual fee for public water supply systems serving fifty-~~  
19 ~~three thousand three hundred thirty four or more service connections~~  
20 ~~shall be ten thousand dollars))~~ For community and noncommunity systems,  
21 effective July 1, 1999, the fee shall be based on the number of service  
22 connections or equivalent service connections and calculated as  
23 follows:

24 (i) All nontransient noncommunity systems with fewer than one  
25 hundred equivalent service connections shall pay a program capacity fee  
26 and an additional service fee for the purposes described in (b) of this  
27 subsection. The program capacity portion of the fee is one hundred  
28 fifty dollars per system and the service portion of the fee is seventy-  
29 five cents per equivalent service connection;

30 (ii) All nontransient noncommunity systems with one hundred or more  
31 equivalent service connections shall pay a program capacity fee and an  
32 additional service fee for the purposes described in (b) of this  
33 subsection. The program capacity portion of the fee is two hundred  
34 fifty dollars per system and the service portion of the fee is seventy-  
35 five cents per equivalent service connection;

36 (iii) All transient noncommunity systems with fewer than one  
37 hundred equivalent service connections shall pay a fee of one hundred  
38 twenty-five dollars per system;

1 (iv) All nontransient noncommunity systems with one hundred or more  
2 equivalent service connections shall pay a fee of two hundred fifty  
3 dollars per system;

4 (v) All community systems shall pay a program capacity fee and an  
5 additional service fee for the purposes described in (b) of this  
6 subsection. The program capacity portion of the fee and the service  
7 portion of the fee are as follows:

8 (A) For systems with under one hundred connections, the program  
9 capacity portion of the fee is one hundred fifty dollars and the  
10 service portion of the fee is one dollar per connection;

11 (B) For systems with one hundred to one thousand connections, the  
12 program capacity portion of the fee is two hundred fifty dollars and  
13 the service portion of the fee is one dollar and eighty-five cents per  
14 connection;

15 (C) For systems with one thousand one to ten thousand connections,  
16 the program capacity portion of the fee is two hundred fifty dollars  
17 and the service portion of the fee is one dollar and forty cents per  
18 connection;

19 (D) For systems with ten thousand one to fifty thousand  
20 connections, the program capacity portion of the fee is two hundred  
21 fifty dollars and the service portion of the fee is seventy-five cents  
22 per connection; and

23 (E) For systems with over fifty thousand connections, the program  
24 capacity portion of the fee is two hundred fifty dollars and the  
25 service portion of the fee is twenty-five cents per connection;

26 (vi) The annual fee, excluding the noncompliance fees described in  
27 (g) of this subsection, is capped at fifty thousand dollars per year  
28 until July 1, 2001.

29 (b) The program capacity portion of the fee must pay for basic  
30 administration of the operating permit program, including related data  
31 management, compliance, and local health jurisdiction support.

32 (i) The service portion of the fee must fund additional services to  
33 water systems. The service fee covers the following types of services:  
34 Routine water system plan reviews, water system operator certification  
35 costs, monitoring waiver determinations, and routine sanitary surveys.  
36 The departmental services that a water system will receive for payment  
37 of its operating permit fee will depend on the size and classification  
38 of the system, as follows:

1 (A) All nontransient noncommunity systems with fewer than one  
2 hundred equivalent service connections shall receive monitoring waiver  
3 determinations and water system operator certification services;

4 (B) All nontransient noncommunity systems with one hundred or more  
5 equivalent service connections shall receive monitoring waiver  
6 determinations, water system operator certification services, and  
7 routine sanitary surveys;

8 (C) All transient noncommunity systems with fewer than one hundred  
9 equivalent service connections shall receive no extra services;

10 (D) All nontransient noncommunity systems with one hundred or more  
11 equivalent service connections shall receive water system operator  
12 certification services;

13 (E) All community systems with fewer than one hundred connections  
14 shall receive monitoring waiver determinations and water system  
15 operator certification services;

16 (F) All community systems with one hundred to one thousand  
17 connections shall receive monitoring waiver determinations, water  
18 system operator certification services, and routine sanitary surveys;  
19 and

20 (G) All community systems with more than one thousand connections  
21 shall receive routine monitoring waiver determinations, water system  
22 operator certification services, routine sanitary surveys, and water  
23 system plan reviews.

24 (ii) The department may not charge separate fees for services for  
25 which water systems pay through the service portion of the fees  
26 described in (a) and (b) of this subsection.

27 (iii) The department may charge separate fees for services it  
28 performs for water systems that are not included in the service portion  
29 of the fees described in (a) and (b) of this subsection, such as  
30 reviews of project reports and construction documents, special purpose  
31 investigations, and multiple reviews of planning documents.

32 (A) If the department charges separate fees for services that it  
33 performs on a periodic basis, it may prorate the charges over the  
34 period of time that includes the years between which and in which the  
35 department provides the services.

36 (B) The department may include separate charges, either prorated or  
37 not prorated, on the operating permit billings.

1        (iv) The department may reduce a system's operating permit fee if  
2 one or more of the services described in (b) of this subsection is not  
3 required to be provided by the department to the system.

4        (c) Each system may allocate its fee between customer groups and  
5 may separately identify the fee on customer bills as the amount  
6 collected by the system for maintenance of the state drinking water  
7 program and for the provision of the services identified in (b) of this  
8 subsection.

9        ~~((e))~~ (d) In addition to the fees under (a) through ~~((d))~~ (c)  
10 of this subsection, the department may charge an additional one-time  
11 fee of five dollars for each service connection in a new water system.

12        (e) For systems in any jurisdiction that has adopted an operating  
13 permit program for group A public water systems, as authorized under  
14 RCW 70.119A.130, the department shall either not collect a fee or shall  
15 reduce its fee, as appropriate, unless the department collects the fee  
16 on behalf of the local jurisdiction.

17        (f) If on July 1, 1999, a system's operating permit fee, under this  
18 section, increases by fifty percent or more over its fee for the  
19 preceding year, its fee for that year shall be the old operating permit  
20 fee plus fifty percent of the difference between the old and the new  
21 operating permit fees. Beginning July 1, 2000, systems shall pay the  
22 entire fee amount required under this section.

23        (g) As of July 1, 2000, systems that are determined by the  
24 department to be inadequate, based upon substantial noncompliance with  
25 health-related criteria prescribed by the department by rule, shall pay  
26 noncompliance fees in addition to their normal operating permit fees as  
27 set forth in this subsection (6)(g). Beginning July 1, 2000, the first  
28 year a system that is determined by the department to be inadequate,  
29 based upon substantial noncompliance with health-related criteria  
30 prescribed by the department by rule, it shall pay an additional  
31 noncompliance fee of one hundred percent of the rate described in (a)  
32 of this subsection or subsection (8) of this section. Every successive  
33 year the system remains out of compliance and its customers continue to  
34 face significant health risks, the noncompliance fee shall increase an  
35 additional one hundred percent of the rate described in (a) of this  
36 subsection or subsection (8) of this section. The department may not  
37 impose the additional fee upon a system that is complying with a  
38 department-approved schedule for achieving compliance. The department  
39 shall use the revenue from the noncompliance fees to provide technical

1 assistance activities to assist water systems to understand and comply  
2 with the department's rules. At least one year before July 1, 2000,  
3 the department shall notify all systems of the provisions of this  
4 subsection (6)(g).

5 ~~(7) ((The department may phase in the implementation for any group~~  
6 ~~of systems provided the schedule for implementation is established by~~  
7 ~~rule. Prior to implementing the operating permit requirement on water~~  
8 ~~systems having less than five hundred service connections, the~~  
9 ~~department shall form a committee composed of persons operating these~~  
10 ~~systems. The committee shall be composed of the department of health,~~  
11 ~~two operators of water systems having under one hundred connections,~~  
12 ~~two operators of water systems having between one hundred and two~~  
13 ~~hundred service connections, two operators of water systems having~~  
14 ~~between two hundred and three hundred service connections, two~~  
15 ~~operators of water systems having between three hundred and four~~  
16 ~~hundred service connections, two operators of water systems having~~  
17 ~~between four hundred and five hundred service connections, and two~~  
18 ~~county public health officials. The members shall be chosen from~~  
19 ~~different geographic regions of the state. This committee shall~~  
20 ~~develop draft rules to implement this section. The draft rules will~~  
21 ~~then be subject to the rule-making procedures in accordance with~~  
22 ~~chapter 34.05 RCW)) The fees and cap established in subsection (6) of~~  
23 ~~this section may be modified by the department by rule, but only if:~~  
24 ~~(a) The water supply advisory committee reviews the changes; and (b)~~  
25 ~~the effective date of the new fee levels is no earlier than July 1,~~  
26 ~~2001.~~

27 ~~(8) ((The department shall notify existing public water systems of~~  
28 ~~the requirements of RCW 70.119A.030, 70.119A.060, and this section at~~  
29 ~~least one hundred twenty days prior to the date that an application for~~  
30 ~~a permit is required pursuant to RCW 70.119A.030, 70.119A.060, and this~~  
31 ~~section.~~

32 ~~(9))~~ The department shall issue one operating permit to any  
33 approved satellite system management agency. The service portion of  
34 the operating permit fees for approved satellite system management  
35 agencies shall be ((one-dollar)) sixty-five cents per connection per  
36 year for the total number of connections under the ownership and  
37 management of the approved satellite agency, so long as the satellite  
38 agency is offering service to all new customers within its designated  
39 service area consistent with its approved satellite management agency

1 plan. The department shall define by rule the meaning of the term  
2 "satellite system management agency." (~~((If a statutory definition of~~  
3 ~~this term exists, then the department shall adopt by rule a definition~~  
4 ~~consistent with the statutory definition.~~

5 ~~(10) For purposes of this section,))~~ (9) The definitions in this  
6 subsection apply throughout this section, unless the context clearly  
7 requires otherwise.

8 (a) "Group A public water system" and "system" mean those water  
9 systems with fifteen or more service connections, regardless of the  
10 number of people; or a system serving an average of twenty-five or more  
11 people per day for sixty or more days within a calendar year,  
12 regardless of the number of service connections.

13 (b) "Community system" means a system serving primarily a  
14 residential population, and "noncommunity system" means a system  
15 serving primarily a nonresidential population as defined by the  
16 department by rule.

17 (c) For nontransient noncommunity systems, "equivalent service  
18 connections" means the equivalent number of service connections  
19 calculated by dividing the average population served each day by two  
20 and one-half. For transient noncommunity systems, "equivalent service  
21 connections" means the equivalent number of service connections  
22 calculated by dividing the average population served each day by  
23 twenty-five.

24 (d) "Routine sanitary survey" includes the annual watershed and  
25 treatment evaluations required for systems under the federal surface  
26 water treatment rule.

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