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HOUSE BILL 2172

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State of Washington                      59th Legislature                      2005 Regular Session

By Representatives Newhouse, Linville and Clements

Read first time 02/22/2005.      Referred to Committee on Economic Development, Agriculture & Trade.

1            AN ACT Relating to department of ecology water discharge permit  
2 fees; and amending RCW 90.48.465.

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

4            **Sec. 1.** RCW 90.48.465 and 2002 c 361 s 2 are each amended to read  
5 as follows:

6            (1) The department shall establish annual fees to collect expenses  
7 for issuing and administering each class of permits under RCW  
8 90.48.160, 90.48.162, and 90.48.260. An initial fee schedule shall be  
9 established by rule and be adjusted no more often than once every two  
10 years. This fee schedule shall apply to all permits, regardless of  
11 date of issuance, and fees shall be assessed prospectively. All fees  
12 charged shall be based on factors relating to the complexity of permit  
13 issuance and compliance and may be based on pollutant loading and  
14 toxicity and be designed to encourage recycling and the reduction of  
15 the quantity of pollutants. Fees shall be established in amounts to  
16 fully recover and not to exceed expenses incurred by the department in  
17 processing permit applications and modifications, monitoring and  
18 evaluating compliance with permits, conducting inspections, securing  
19 laboratory analysis of samples taken during inspections, reviewing

1 plans and documents directly related to operations of permittees,  
2 overseeing performance of delegated pretreatment programs, and  
3 supporting the overhead expenses that are directly related to these  
4 activities.

5 (2) The annual fee paid by a municipality, as defined in 33 U.S.C.  
6 Sec. 1362, for all domestic wastewater facility permits issued under  
7 RCW 90.48.162 and 90.48.260 shall not exceed the total of a maximum of  
8 fifteen cents per month per residence or residential equivalent  
9 contributing to the municipality's wastewater system.

10 (3) The department shall ensure that indirect dischargers do not  
11 pay twice for the administrative expense of a permit. Accordingly,  
12 administrative expenses for permits issued by a municipality under RCW  
13 90.48.165 are not recoverable by the department. In the event the  
14 department delegates the federal pretreatment program duties to a  
15 municipality, and the delegation results in a municipality issuing a  
16 permit and collecting a fee from the indirect discharger, the  
17 department shall waive its fee for any additional permit required by  
18 the indirect discharger.

19 (4) In establishing fees, the department shall consider the  
20 economic impact of fees on small dischargers and the economic impact of  
21 fees on public entities required to obtain permits for storm water  
22 runoff and shall provide appropriate adjustments.

23 (5) The fee for an individual permit issued for a dairy farm as  
24 defined under chapter 90.64 RCW shall be fifty cents per animal unit up  
25 to one thousand two hundred fourteen dollars for fiscal year 1999. The  
26 fee for a general permit issued for a dairy farm as defined under  
27 chapter 90.64 RCW shall be fifty cents per animal unit up to eight  
28 hundred fifty dollars for fiscal year 1999. Thereafter, these fees may  
29 rise in accordance with the fiscal growth factor as provided in chapter  
30 43.135 RCW.

31 (6) The fee for a general permit or an individual permit developed  
32 solely as a result of the federal court of appeals decision in  
33 *Headwaters, Inc. v. Talent Irrigation District*, 243 F.3rd 526 (9th Cir.  
34 2001) is limited, until June 30, 2003, to a maximum of three hundred  
35 dollars. Such a permit is required only, and as long as, the  
36 interpretation of this court decision is not overturned or modified by  
37 future court rulings, administrative rule making, or clarification of

1 scope by the United States environmental protection agency or  
2 legislative action. In such a case the department shall take  
3 appropriate action to rescind or modify these permits.

4 (7) All fees collected under this section shall be deposited in the  
5 water quality permit account hereby created in the state treasury.  
6 Moneys in the account may be appropriated only for purposes of  
7 administering permits under RCW 90.48.160, 90.48.162, and 90.48.260.

8 (8) The department shall present a biennial progress report on the  
9 use of moneys from the account to the legislature. The report will be  
10 due December 31st of odd-numbered years. The report shall consist of  
11 information on fees collected, actual expenses incurred, and  
12 anticipated expenses for the current and following fiscal years.

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