

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 2309

59th Legislature
2005 Regular Session

Passed by the House April 23, 2005
Yeas 62 Nays 34

Speaker of the House of Representatives

Passed by the Senate April 23, 2005
Yeas 32 Nays 16

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 2309** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 2309

AS AMENDED BY THE SENATE

Passed Legislature - 2005 Regular Session

State of Washington **59th Legislature** **2005 Regular Session**

By House Committee on Appropriations (originally sponsored by Representative Linville; by request of Office of Financial Management)

READ FIRST TIME 04/05/05.

1 AN ACT Relating to water right fees; amending RCW 90.03.470; adding
2 a new section to chapter 90.14 RCW; 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 that the fees
5 associated with various actions of the department of ecology relating
6 to the processing and administration of water rights are outdated and
7 are insufficient even to recover the cost of handling the funds
8 submitted. The legislature also finds that water right processing fees
9 are currently collected at three different stages of the water rights
10 process and that reducing the number of instances of fee collection to
11 two stages of the process would increase efficiency and reduce
12 administrative costs. The legislature further finds that several
13 current statutory fees are archaic or are otherwise covered by other
14 general statutes, including the state's public disclosure laws. The
15 legislature therefore intends to update and modernize the fee schedule
16 associated with water right-related actions of the department of
17 ecology.

1 **Sec. 2.** RCW 90.03.470 and 1993 c 495 s 2 are each amended to read
2 as follows:

3 ~~((Except as otherwise provided in subsection (15) of this~~
4 ~~section,))~~ The ((following)) fees specified in this section shall be
5 collected by the department in advance((+)) of the requested action.

6 (1) For the examination of an application for a permit to
7 appropriate water ((or on application to change point of diversion,
8 withdrawal, purpose or place of use)), a minimum fee of ((ten)) fifty
9 dollars((, to be paid)) must be remitted with the application. For
10 ((each second foot between one and five hundred second feet, two
11 dollars per second foot; for each second foot between five hundred and
12 two thousand second feet, fifty cents per second foot; and for each
13 second foot in excess thereof, twenty cents per second foot)) an amount
14 of water exceeding one-half cubic foot per second, the examination fee
15 shall be assessed at the rate of one dollar per one hundredth cubic
16 foot per second. In no case will the examination fee be less than
17 fifty dollars or more than twenty-five thousand dollars. No fee is
18 required under this subsection (1) for an application filed by a party
19 to a cost reimbursement agreement made under RCW 90.03.265.

20 (2) For the examination of an application to store water, a fee of
21 two dollars for each acre foot of storage ((up to and including one
22 hundred thousand acre feet, one cent per acre foot, and for each acre
23 foot in excess thereof, one fifth cent per acre foot)) proposed shall
24 be charged, but a minimum fee of fifty dollars must be remitted with
25 the application. In no case will the examination fee for a storage
26 project be less than fifty dollars or more than twenty-five thousand
27 dollars. No fee is required under this subsection (2) for an
28 application filed by a party to a cost reimbursement agreement made
29 under RCW 90.03.265.

30 (3)(a) For the examination of an application to transfer, change,
31 or amend a water right certificate, permit, or claim as authorized by
32 RCW 90.44.100, 90.44.105, or 90.03.380, a minimum fee of fifty dollars
33 must be remitted with the application. For an application for change
34 involving an amount of water exceeding one cubic foot per second, the
35 total examination fee shall be assessed at the rate of fifty cents per
36 one hundredth cubic foot per second. For an application for change of
37 a storage water right, the total examination fee shall be assessed at
38 the rate of one dollar for each acre foot of water involved in the

1 change. The fee shall be based on the amount of water subject to
2 change as proposed in the application, not on the total amount of water
3 reflected in the water right certificate, permit, or claim. In no case
4 will the examination fee charged for a change application be less than
5 fifty dollars or more than twelve thousand five hundred dollars.

6 (b) The examination fee for a temporary or seasonal change under
7 RCW 90.03.390 is fifty dollars and must be remitted with the
8 application.

9 (c) No fee is required under this subsection (3) for:

10 (i) An application to process a change relating to donation of a
11 trust water right to the state;

12 (ii) An application to process a change when the department
13 otherwise acquires a trust water right for purposes of improving
14 instream flows or for other public purposes;

15 (iii) An application filed with a water conservancy board according
16 to chapter 90.80 RCW or for the review of a water conservancy board's
17 record of decision submitted to the department according to chapter
18 90.80 RCW; or

19 (iv) An application filed by a party to a cost reimbursement
20 agreement made under RCW 90.03.265.

21 (d) For a change, transfer, or amendment involving a single project
22 operating under more than one water right, including related secondary
23 diversion rights, or involving the consolidation of multiple water
24 rights, only one examination fee and one certificate fee are required
25 to be paid.

26 (4) The ((ten)) fifty-dollar minimum fee payable with the
27 application shall be a credit to ((that)) the total amount whenever the
28 examination fee ((for direct diversion or storage)) totals more than
29 ((ten)) fifty dollars under the ((above schedule)) schedule specified
30 in subsections (1) through (3) of this section and in such case the
31 further fee due shall be the total computed amount, less ((ten-
32 dollars)) the amount previously paid. Within five working days from
33 receipt of an application, the department shall notify the applicant by
34 registered mail of any additional fees due under ((the above schedule
35 and any additional fees shall be paid to and received by the department
36 within thirty days from the date of filing the application, or the
37 application shall be rejected)) subsections (1) through (3) of this
38 section.

1 ~~((2) For filing and recording a permit to appropriate water for~~
2 ~~irrigation purposes, forty cents per acre for each acre to be irrigated~~
3 ~~up to and including one hundred acres, and twenty cents per acre for~~
4 ~~each acre in excess of one hundred acres up to and including one~~
5 ~~thousand acres, and ten cents for each acre in excess of one thousand~~
6 ~~acres; and also twenty cents for each theoretical horsepower up to and~~
7 ~~including one thousand horsepower, and four cents for each theoretical~~
8 ~~horsepower in excess of one thousand horsepower, but in no instance~~
9 ~~shall the minimum fee for filing and recording a permit to appropriate~~
10 ~~water be less than five dollars. For all other beneficial purposes the~~
11 ~~fee shall be twice the amount of the examination fee except that for~~
12 ~~individual household and domestic use, which may include water for~~
13 ~~irrigation of a family garden, the fee shall be five dollars.~~

14 ~~(3) For filing and recording any other water right instrument, four~~
15 ~~dollars for the first hundred words and forty cents for each additional~~
16 ~~hundred words or fraction thereof.~~

17 ~~(4) For making a copy of any document recorded or filed in his~~
18 ~~office, forty cents for each hundred words or fraction thereof, but~~
19 ~~when the amount exceeds twenty dollars, only the actual cost in excess~~
20 ~~of that amount shall be charged.~~

21 ~~(5) For certifying to copies, documents, records or maps, two~~
22 ~~dollars for each certification.~~

23 ~~(6) For blueprint copies of a map or drawing, or, for such other~~
24 ~~work of a similar nature as may be required of the department, at~~
25 ~~actual cost of the work.~~

26 ~~(7))~~ (5) The fees specified in subsections (1) through (3) of this
27 section do not apply to any filings for emergency withdrawal
28 authorizations or temporary drought-related water right changes
29 authorized under RCW 43.83B.410 that are received by the department
30 while a drought condition order issued under RCW 43.83B.405 is in
31 effect.

32 (6) For ~~((granting))~~ applying for each extension of time for
33 beginning construction work under a permit to appropriate water, ~~((an~~
34 ~~amount equal to one half of the filing and recording fee, except that~~
35 ~~the minimum fee shall be not less than five dollars for each year that~~
36 ~~an extension is granted, and for granting an extension of time))~~ for
37 completion of construction work, or for completing application of water
38 to a beneficial use, ~~((five dollars for each year that an extension is~~

1 granted)) a fee of fifty dollars is required. These fees also apply to
2 similar extensions of time requested under a change or transfer
3 authorization.

4 ~~((+8))~~ (7) For the inspection of any hydraulic works to insure
5 safety to life and property, a fee based on the actual cost of the
6 inspection, including the expense incident thereto, is required except
7 as follows: (a) For any hydraulic works less than ten years old, that
8 the department examined and approved the construction plans and
9 specifications as to its safety when required under RCW 90.03.350,
10 there shall be no fee charged; or (b) for any hydraulic works more than
11 ten years old, but less than twenty years old, that the department
12 examined and approved the construction plans and specifications as to
13 its safety when required under RCW 90.03.350, the fee charged shall not
14 exceed the fee for a significant hazard dam.

15 ~~((+9))~~ (8) For the examination of plans and specifications as to
16 safety of controlling works for storage of ten acre feet or more of
17 water, a minimum fee of ten dollars, or a fee equal to the actual cost,
18 is required.

19 ~~((+10))~~ (9) For recording an assignment either of a permit to
20 appropriate water or of an application for such a permit, a fee of
21 ~~((five))~~ fifty dollars is required.

22 ~~((+11))~~ (10) For preparing and issuing all water right
23 certificates, ~~((five))~~ a fee of fifty dollars is required.

24 ~~((+12))~~ (11) For filing and recording a formal protest against
25 granting any application, ~~((two))~~ a fee of fifty dollars is required.
26 No fee is required to submit a comment, by mail or otherwise, regarding
27 an application.

28 ~~((+13))~~ (12) For filing an application to amend a water right
29 claim filed under chapter 90.14 RCW, a fee of fifty dollars is
30 required.

31 (13) An application or request for an action as provided for under
32 this section is incomplete unless accompanied by the fee or the minimum
33 fee. If no fee or an amount less than the minimum fee accompanies an
34 application or other request for an action as provided under this
35 section, the department shall return the application or request to the
36 applicant with advice as to the fee that must be remitted with the
37 application or request for it to be accepted for processing. If
38 additional fees are due, the department shall provide timely

1 notification by certified mail with return receipt requested to
2 (~~applicants that fees are due~~) the applicant. No action may be taken
3 by the department until the fee is paid in full. Failure to remit fees
4 within sixty days of the department's notification (~~shall be~~) is
5 grounds for rejecting the application or request or canceling the
6 permit. Cash shall not be accepted. Fees must be paid by check or
7 money order and are nonrefundable.

8 (14) For purposes of calculating fees for ground water filings, one
9 cubic foot per second shall be regarded as equivalent to four hundred
10 fifty gallons per minute.

11 (~~For the period beginning July 1, 1993, and ending June 30,~~
12 ~~1994, there is imposed and the department shall collect a one hundred~~
13 ~~dollar surcharge on all water rights applications or changes filed~~
14 ~~under this section, and upon all water rights applications or changes~~
15 ~~pending as of July 1, 1993. This charge shall be in addition to any~~
16 ~~other fees imposed under this section.)) Eighty percent of the fees
17 collected by the department under this section shall be deposited in
18 the state general fund. Twenty percent of the fees collected by the
19 department under this section shall be deposited in the water rights
20 tracking system account established in section 3 of this act.~~

21 (16) Except for the fees relating to the inspection of hydraulic
22 works and the examination of plans and specifications of controlling
23 works provided for in subsections (7) and (8) of this section, nothing
24 in this section is intended to grant authority to the department to
25 amend the fees in this section by adoption of rules or otherwise.

26 NEW SECTION. Sec. 3. A new section is added to chapter 90.14 RCW
27 to read as follows:

28 The water rights tracking system account is created in the state
29 treasury. Twenty percent of the fees collected by the department of
30 ecology according to RCW 90.03.470 must be deposited in the account.
31 Moneys in the account may be spent only after appropriation.
32 Expenditures from the account may be used by the department of ecology
33 for the development, implementation, and management of a water rights
34 tracking system, including a water rights mapping system and a water
35 rights data base.

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