

SENATE BILL REPORT

EHB 3381

As of March 11, 2008

Title: An act relating to fees to implement programs that protect and improve Washington's health, safety, education, employees, and consumers.

Brief Description: Relating to fees to implement programs that protect and improve Washington's health, safety, education, employees, and consumers.

Sponsors: Representative Sommers.

Brief History: Passed House: 3/10/08, 55-39.

Committee Activity:

SENATE COMMITTEE ON WAYS & MEANS

Staff: Steve Jones (786-7440)

Background: Many state agency activities are supported by fee revenue. In contrast to taxes, which are charges levied for the general support of government, fees are typically part of a program that regulates a profession, industry, or activity and are intended to support the cost of administering that program. Examples of regulatory fees include license fees, inspection fees, and examination fees. Other types of fees are user fees, in which a person pays a charge for using a publicly-owned or publicly-provided service or facility. Examples of user fees are higher education tuition and state parks campsite fees.

Some fees are established in statute by the Legislature. In other cases, the Legislature has delegated to state agencies the ability to establish fees and to determine the amounts of those fees. For example, the Legislature has delegated to the Department of Licensing (DOL) the authority to license and regulate various business and occupations, and it has directed the DOL to establish fees for each profession at a level sufficient to defray the costs of administering that program. State law limits agencies' ability to increase fees. Initiative 601, adopted in 1993, prohibited state agencies from raising fees in excess of the fiscal growth factor without prior legislative approval. Initiative 601 did not apply to the creation of new fees. In 2007 Initiative 960 modified fee increase restrictions to prohibit state agencies from imposing new fees or increasing fees by any amount without prior legislative approval. In addition, bills that authorize fee increases or new fees are subject to Initiative 960's publicity and projection provisions, under which the Office of Financial Management must provide public notice of the legislation, along with ten-year projections of the estimated cost to taxpayers.

Department of Labor & Industries: Prevailing Wage Program. State law requires employers to pay workers on all public works contracts and public building service maintenance

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contracts at least the prevailing wage. The Department of Labor & Industries (L&I) enforces the prevailing wage program. In statute, the fees charged by L&I for approving statements of intent to pay prevailing wages and certification of affidavits of wages are capped at \$25. These fees are deposited in the Public Works Administration Account.

Factory Assembled Structures and Mobile/Manufactured Homes. L&I is authorized to enforce safety standards for structures such as manufactured homes, mobile homes, conversion vending units, etc. A statute authorizes the department to charge fees for the cost of administering this program. These fees are deposited in the state General Fund. L&I was authorized to adopt temporary rules that decreased some fees and increased other fees until April 1, 2009, with a new fee schedule, to be adopted effective that date, that restored the prior schedule, adjusted by fiscal growth factors not applied during the period of the temporary fee schedule.

Explosives. L&I regulates and licenses the manufacture, purchase, sale, use, and storage of explosives. Annual minimum and maximum for these licenses are established in statute. The minimum fees range from \$5 to \$25 and the maximums from \$15 to \$100.

Department of Health: Health Professions. The Department of Health (DOH) and the 16 health professions' boards and commissions license and regulate numerous health professions. Licensing fees are deposited in the Health Professions Account. In the 2008 legislative session, the Legislature enacted 4SHB1103 (health professions), which makes numerous changes to the health professions regulatory process, including changes to disciplinary procedures and new requirements for background checks for license applicants.

Radiology Assistants. In the 2008 legislative session, the Legislature enacted SHB 6439, which establishes the new health profession of radiology assistants as a fourth category of radiologic technologists certified and regulated by the DOH.

Department of Agriculture: Pesticide Management. The Department of Agriculture (DOA) administers a pesticide management program, along with associated licensing and registration. The program encompasses several types of pesticide licenses. Fees for licenses and registrations are established in statute. Revenues from these fees are deposited into the pesticide subaccount in the Agricultural Local Account.

Animal Inspection. The DOA administers an animal health program to prevent the introduction and spread of contagious, communicable, or dangerous diseases affecting animals.

Department of Licensing: The Department of Licensing (DOL) licenses and regulates bail bond agents and agencies, and bail bond recovery agents. Fees for these activities are deposited in the Business & Professions Account. In the 2008 legislative session, the Legislature enacted ESSB 6437, which establishes additional requirements for bail bond recovery agents, including additional training and notification requirements.

Department of Financial Institutions: The Department of Financial Institutions (DFI) regulates banks chartered in this state. DFI must collect the estimated actual cost of any examination of a bank. DFI regulates credit unions chartered in this state. DFI may assess credit unions in order to cover the costs of the regulatory oversight. Mortgage brokers are licensed under the Mortgage Broker Practices Act (chapter 19.146 RCW). Mortgage brokers

are charged licensing fees and fees for any branch office. All fees received by DFI (except for fees received by the division of securities) are deposited into the financial services regulation fund.

Summary of Bill: The Legislature finds that regulatory programs to protect health, safety, employees, and consumers may require that the cost of those programs be borne by the regulated industry or profession rather than the taxpayers as a whole. The Legislature authorizes certain new fees and fee increases.

Department of Labor and Industries: *Prevailing Wage Program.* The maximum fee that L&I may charge for approving statements of intent to pay prevailing wages and certification of affidavits of wages is increased to \$40.

Factory Assembled Structures and Mobile/Manufactured Homes. In the factory assembled structures program, the authority of L&I to adopt a temporary fee schedule and the requirement to adopt the prior fee schedule, adjusted by the fiscal growth factor, are deleted. L&I is authorized to adopt fees to cover costs incurred in administration of the program. L&I may use these fees only for purposes of this particular program.

Explosives. The statutory minimum fees for explosives licenses are increased to \$25 and \$50 and the maximum fees are increased to \$100 – \$400. License fees and criminal history check fees must be deposited in the Accident Fund and Medical Aid Fund rather than the General Fund.

Department of Health: *Health Professions.* DOH is authorized to increase application and renewal fees as necessary to recover the cost of implementing the disciplinary and administrative provisions of 4SHB 1103. DOH is also authorized to establish new fees as necessary to recover the cost of background check activities required by section 7 of 4SHB 1103.

Radiology Assistants. DOH is authorized to establish fees for application, certification, and certification renewal for radiology assistants.

Department of Agriculture: *Pesticide Management.* Various pesticide licensing and registration fees are increased in statute.

Animal Inspection. DOA is authorized to establish fees for the establishment and inspection of animal holding facilities and the inspection and monitoring of animals in these facilities, and special inspections of animals or animal facilities that the director may provide at the request of the animal owner or interested persons. The fees will be established to cover the cost of the services provided and must be deposited in the Agricultural Local Fund.

Department of Licensing: *Bail Bond Agents and Bail Bond Recovery Agents.* DOL is authorized to increase licensing fees as needed to defray the cost of implementing ESSB 6437 (bail bond recovery agents).

Department of Financial Institutions (DFI): DFI is authorized to increase specified fees pertaining to credit unions, banks, loan originators, and mortgage brokers.

Appropriation: None.

Fiscal Note: Requested on March 8, 2008.

Committee/Commission/Task Force Created: No.

Effective Date: With the exception of certain sections, the bill contains an emergency clause and takes effect immediately.