

**2SHB 2591 - H AMD 1353**

By Representative Morris

NOT CONSIDERED 03/11/2010

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 90.03 RCW  
4 to read as follows:

5 The water rights processing and dam safety account is created in  
6 the state treasury. All receipts from the fees collected under RCW  
7 90.03.470 must be deposited into the account. Moneys in the account  
8 may be spent only after appropriation. Expenditures from the account  
9 may be used only to support the processing of water right applications  
10 and change applications as provided in this chapter and chapters 90.38,  
11 90.42, and 90.44 RCW and the safety inspection of hydraulic works and  
12 plans and specifications for such works.

13 **Sec. 2.** RCW 90.03.470 and 2005 c 412 s 2 are each amended to read  
14 as follows:

15 The fees specified in this section shall be collected by the  
16 department in advance of the requested action.

17 (1) (~~For the examination of an application for a permit to~~  
18 ~~appropriate water, a minimum fee of fifty dollars must be remitted with~~  
19 ~~the application.~~

20 ~~For an amount of water exceeding one-half cubic foot per second,~~  
21 ~~the examination fee shall be assessed at the rate of one dollar per one~~  
22 ~~hundredth cubic foot per second. In no case will the examination fee~~  
23 ~~be less than fifty dollars or more than twenty-five thousand dollars.~~  
24 ~~No fee is required under this subsection (1) for an application filed~~  
25 ~~by a party to a cost reimbursement agreement made under RCW~~  
26 ~~90.03.265.)) For the examination of an application for a permit to  
27 appropriate water or for an application to change, transfer, or amend  
28 an existing water right, an examination fee equal to thirty-five  
29 dollars for each one-hundredth of a cubic foot per second must be~~

1 remitted with the application, but in no case may the examination fee  
2 be less than one thousand dollars or more than thirty-five thousand  
3 dollars.

4 (2) The following fees apply for the examination of an application  
5 to store water(, a fee of two dollars for each acre foot of storage  
6 proposed shall be charged, but a minimum fee of fifty dollars must be  
7 remitted with the application. In no case will the examination fee for  
8 a storage project be less than fifty dollars or more than twenty-five  
9 thousand dollars. No fee is required under this subsection (2) for an  
10 application filed by a party to a cost reimbursement agreement made  
11 under RCW 90.03.265)) and for an application to change a storage right:

12 (a) For storage of less than one hundred acre feet of water, an  
13 examination fee of one thousand dollars must be remitted with the  
14 application.

15 (b) For storage of more than one hundred acre feet of water but  
16 less than or equal to one thousand acre feet of water, an examination  
17 fee of two thousand dollars must be remitted with the application.

18 (c) For storage of more than one thousand acre feet of water but  
19 less than or equal to ten thousand acre feet of water, an examination  
20 fee of seven thousand five hundred dollars must be remitted with the  
21 application.

22 (d) For storage of more than ten thousand acre feet of water, an  
23 examination fee of fifteen thousand dollars must be remitted with the  
24 application.

25 (3)(a) ~~((For the examination of an application to transfer, change,~~  
26 ~~or amend a water right certificate, permit, or claim as authorized by~~  
27 ~~RCW 90.44.100, 90.44.105, or 90.03.380, a minimum fee of fifty dollars~~  
28 ~~must be remitted with the application. For an application for change~~  
29 ~~involving an amount of water exceeding one cubic foot per second, the~~  
30 ~~total examination fee shall be assessed at the rate of fifty cents per~~  
31 ~~one hundredth cubic foot per second. For an application for change of~~  
32 ~~a storage water right, the total examination fee shall be assessed at~~  
33 ~~the rate of one dollar for each acre foot of water involved in the~~  
34 ~~change. The fee shall be based on the amount of water subject to~~  
35 ~~change as proposed in the application, not on the total amount of water~~  
36 ~~reflected in the water right certificate, permit, or claim. In no case~~  
37 ~~will the examination fee charged for a change application be less than~~  
38 ~~fifty dollars or more than twelve thousand five hundred dollars.~~

1       ~~(b))~~ The fee paid to the department for an application for change  
2 filed with a water conservancy board under chapter 90.80 RCW or for an  
3 application for change filed by a party to a cost-reimbursement  
4 agreement under RCW 90.03.265 must be one-fifth of the amounts provided  
5 in subsections (1) and (2) of this section. A conservancy board may  
6 charge its own processing fees in accordance with RCW 90.80.060.

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

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

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

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

16       ~~(iii) An application filed with a water conservancy board according~~  
17 ~~to chapter 90.80 RCW or for the review of a water conservancy board's~~  
18 ~~record of decision submitted to the department according to chapter~~  
19 ~~90.80 RCW; or~~

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

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

27       ~~(4) ((The fifty-dollar minimum fee payable with the application~~  
28 ~~shall be a credit to the total amount whenever the examination fee~~  
29 ~~totals more than fifty dollars under the schedule specified in~~  
30 ~~subsections (1) through (3) of this section and in such case the~~  
31 ~~further fee due shall be the total computed amount, less the amount~~  
32 ~~previously paid. Within five working days from receipt of an~~  
33 ~~application, the department shall notify the applicant by registered~~  
34 ~~mail of any additional fees due under subsections (1) through (3) of~~  
35 ~~this section.))~~

36       (a) The fee amounts specified in this section apply to  
37 applications received after the effective date of this section and to  
38 all applications that have not been acted on by the department by  
issuance of a report of examination as of the effective date of this

1 section. For pending applications that were filed prior to the  
2 effective date of this section, any fees that were paid under a  
3 previous fee schedule must be credited to the amounts required by  
4 subsections (1), (2), and (3) of this section. When the department is  
5 prepared to take action on an application that was filed prior to the  
6 effective date of this section, the department shall notify the  
7 applicant that additional fees are due and give the applicant sixty  
8 days to remit the additional fees. If the applicant fails to remit the  
9 additional fees within the time provided, the department shall cancel  
10 the application and inform the applicant of the cancellation.

11 (b) If the department receives a water right, change, transfer,  
12 amendment, or storage application that does not include remittance of  
13 the fee amounts required by this section, the department shall return  
14 the application to the applicant with instructions on the proper fee  
15 amount to be remitted. An application does not establish a priority  
16 date until the proper fee is remitted.

17 ~~(5) The ((fees specified in subsections (1) through (3) of this~~  
18 ~~section do not apply to any filings)) fee for filing an emergency  
19 withdrawal authorization(~~s~~) or temporary drought-related water right  
20 change(~~s~~) authorized under RCW 43.83B.410 that ((are)) is received by  
21 the department while a drought condition order issued under RCW  
22 43.83B.405 is in effect is one hundred dollars.~~

23 (6) For applying for each extension of time for beginning  
24 construction work under a permit to appropriate water, for completion  
25 of construction work, or for completing application of water to a  
26 beneficial use, a fee of two hundred fifty dollars is required. These  
27 fees also apply to similar extensions of time requested under a change  
28 or transfer authorization.

29 (7) For the inspection of any hydraulic works to ((insure)) ensure  
30 safety to life and property, a fee based on the actual cost of the  
31 inspection, including the expense incident thereto, is required  
32 ((except as follows: (a) For any hydraulic works less than ten years  
33 old, that the department examined and approved the construction plans  
34 and specifications as to its safety when required under RCW 90.03.350,  
35 there shall be no fee charged; or (b) for any hydraulic works more than  
36 ten years old, but less than twenty years old, that the department  
37 examined and approved the construction plans and specifications as to

1 ~~its safety when required under RCW 90.03.350, the fee charged shall not~~  
2 ~~exceed the fee for a significant hazard dam)).~~

3 (8) For the examination of plans and specifications as to safety of  
4 controlling works for storage of ten acre feet or more of water, a  
5 minimum fee of (~~ten~~) five hundred dollars, or a fee equal to the  
6 actual cost, is required.

7 (9) For recording an assignment either of a permit to appropriate  
8 water or of an application for such a permit, a fee of (~~fifty~~) two  
9 hundred dollars is required.

10 (10) For preparing and issuing all water right certificates, a fee  
11 of (~~fifty~~) two hundred dollars is required.

12 (11) For filing and recording a formal protest against granting any  
13 application, a fee of fifty dollars is required. No fee is required to  
14 submit a comment, by mail or otherwise, regarding an application.

15 (12) For filing an application to amend a water right claim filed  
16 under chapter 90.14 RCW, a fee of (~~fifty~~) two hundred dollars is  
17 required.

18 (13)(a) Each person who holds a water right permit application, a  
19 reservoir permit application, or a change, transfer, or amendment  
20 application that is pending at any time between the effective date of  
21 this section and June 30, 2011, must remit a one-time fee of two  
22 hundred dollars to the department to retain an application in good  
23 standing. The department shall provide written notice by certified  
24 mail to each holder of an application for the fees that are due under  
25 this section. The notice must require that the fees be paid within  
26 sixty days of the date of receipt, but in no case may payment be due  
27 later than June 30, 2011. For ease of administration, the department  
28 may distribute the issuance of the notices by geographic area. The  
29 surcharge paid under this subsection is a credit against the  
30 application fees required in this section.

31 (b) Applications not in good standing must be canceled. The  
32 department shall issue an order to any holder of an application who  
33 fails to pay the fee within the prescribed time. The order must state  
34 that the application is canceled unless payment is received within  
35 thirty days.

36 (c) The department shall advise an applicant and provide an  
37 opportunity for an applicant to withdraw their application without  
38 further payment of fees if the department determines that the

1 application would not likely be approved. The department shall  
2 summarize the basis for its conclusion to the applicant. The  
3 department shall further advise that the applicant has the option of  
4 providing an amended application that could include storage or other  
5 resource management technique that might make it approvable under RCW  
6 90.03.255 or 90.44.055. The department's advice is not subject to  
7 appeal. If the applicant decides to retain the application on file and  
8 pays the fee required in this subsection, the department shall maintain  
9 the application in good standing until it is able to render a final  
10 decision on the application. The final decision is subject to appeal  
11 to the pollution control hearings board as provided under chapter  
12 43.21B RCW.

13 (14) An application or request for an action as provided for under  
14 this section is incomplete unless accompanied by the fee or the minimum  
15 fee. If no fee or an amount less than the minimum fee accompanies an  
16 application or other request for an action as provided under this  
17 section, the department shall return the application or request to the  
18 applicant with advice as to the fee that must be remitted with the  
19 application or request for it to be accepted for processing. If  
20 additional fees are due, the department shall provide timely  
21 notification by certified mail with return receipt requested to the  
22 applicant. No action may be taken by the department until the fee is  
23 paid in full. Failure to remit fees within sixty days of the  
24 department's notification is grounds for rejecting the application or  
25 request or canceling the permit. Cash shall not be accepted. Fees  
26 must be paid by check or money order and are nonrefundable.

27 ~~((+14))~~ (15) For purposes of calculating fees for groundwater  
28 filings, one cubic foot per second shall be regarded as equivalent to  
29 four hundred fifty gallons per minute.

30 ~~((+15) Eighty percent of the fees collected by the department under~~  
31 ~~this section shall be deposited in the state general fund. Twenty~~  
32 ~~percent of the fees collected by the department under this section~~  
33 ~~shall be deposited in the water rights tracking system account~~  
34 ~~established in RCW 90.14.240.~~

35 ~~(16) Except for the fees relating to the inspection of hydraulic~~  
36 ~~works and the examination of plans and specifications of controlling~~  
37 ~~works provided for in subsections (7) and (8) of this section, nothing~~  
38 ~~in this section is intended to grant authority to the department to~~

1 ~~amend the fees in this section by adoption of rules or otherwise.)~~  
2 (16) The fees collected by the department under this section must be  
3 deposited in the water rights processing and dam safety account created  
4 in section 1 of this act.

5 (17)(a) The fees specified in this section are effective until the  
6 department adopts rules that modify them in accordance with section 4  
7 of this act, except that the fees required in subsections (7) and (8)  
8 of this section may be modified at any time.

9 (b) When information has been previously obtained that directly  
10 relates to the processing of an application in subsections (1) and (2)  
11 of this section, the department must proportionately reduce the fees  
12 associated with that application as a result of the reduced workload of  
13 the department.

14 NEW SECTION. Sec. 3. A new section is added to chapter 90.03 RCW  
15 to read as follows:

16 (1) The department must establish by rule a program for the  
17 distribution of hardship grant money to assist applicants in the  
18 payment of fees required in RCW 90.03.470.

19 (2) The department shall submit the list of hardship applicants  
20 that meet the qualifications established by the department in this  
21 section along with the applicant's requested grant amount to the office  
22 of financial management for consideration in the governor's budget  
23 request.

24 (3) The department shall also provide the list of hardship  
25 applicants that meet the qualifications established by the department  
26 in this section along with the applicant's requested grant amount to  
27 the legislature by October 1st of each year.

28 NEW SECTION. Sec. 4. A new section is added to chapter 90.03 RCW  
29 to read as follows:

30 The department may periodically adopt rules to adjust the fees  
31 established in RCW 90.03.470. Any subsequent fees adopted by rule  
32 supersede those provided in RCW 90.03.470. Before proposing to adopt  
33 any changes to the fees, the department shall consult with the policy  
34 committees of the legislature that review water resources legislation.

1        NEW SECTION.    **Sec. 5.**    A new section is added to chapter 90.03 RCW  
2    to read as follows:

3        (1) The department shall submit a report to the legislature prior  
4    to December 31, 2012, and biennially thereafter until December 31,  
5    2020, on the status of the backlog of applications for water right  
6    permits, the effectiveness of processing water right permit  
7    applications to a conclusion within twelve months, and the  
8    appropriateness of the fee amounts.

9        (2) This section expires January 1, 2021."

10       Correct the title.

EFFECT:       Changes the examination fee for the examination of an  
application for a permit to appropriate water or for an application to  
change, transfer, or amend an existing water right from \$100 per cubic  
foot per second (cfs) to \$35 per cfs and changes the maximum amount  
from \$50,000 to \$35,000.

Removes the section on permit exempt wells and their required  
registration and fee.

Establishes a hardship grant program in the department of ecology  
to assistant applicants in the payment of fees.

Makes technical changes.

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