

**E2SSB 6267** - H AMD TO AGNR COMM AMD (H-5369.1/10) **1450**  
By Representative Dunshee

**FAILED 03/04/2010**

1 On page 17, after line 2 of the amendment, insert the following:

2 "NEW SECTION. **Sec. 13.** It is the intent of the legislature to  
3 recover the actual cost of processing applications for water right  
4 permits and to stop subsidizing the processing of water right permits  
5 out of general tax revenues. The legislature recognizes that the  
6 largest beneficiary of receiving a water permit is the person receiving  
7 the water permit.

8 It is further the intent of the legislature that the backlog of  
9 applications be eliminated within five years of the effective date of  
10 this section and that thereafter water right permit applications be  
11 processed to a conclusion within twelve months of an application being  
12 made to the department of ecology.

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

15 The water rights processing and dam safety account is created in  
16 the state treasury. All receipts from the fees collected under RCW  
17 90.03.470 must be deposited into the account. Moneys in the account  
18 may be spent only after appropriation. Expenditures from the account  
19 may be used only to support the processing of water right applications  
20 and change applications as provided in this chapter and chapters 90.38,  
21 90.42, and 90.44 RCW and the safety inspection of hydraulic works and  
22 plans and specifications for such works.

23 **Sec. 15.** RCW 90.03.470 and 2005 c 412 s 2 are each amended to read  
24 as follows:

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

27 (1) (~~For the examination of an application for a permit to~~

1 appropriate water, a minimum fee of fifty dollars must be remitted with  
2 the application.

3 For an amount of water exceeding one half cubic foot per second,  
4 the examination fee shall be assessed at the rate of one dollar per one  
5 hundredth cubic foot per second. In no case will the examination fee  
6 be less than fifty dollars or more than twenty five thousand dollars.  
7 No fee is required under this subsection (1) for an application filed  
8 by a party to a cost reimbursement agreement made under RCW  
9 90.03.265.) For the examination of an application for a permit to  
10 appropriate water or for an application to change, transfer, or amend  
11 an existing water right, an examination fee equal to one hundred  
12 dollars for each one-hundredth of a cubic foot per second must be  
13 remitted with the application, but in no case may the examination fee  
14 be less than one thousand dollars or more than fifty thousand dollars.

15 (2) The following fees apply for the examination of an application  
16 to store water (, a fee of two dollars for each acre foot of storage  
17 proposed shall be charged, but a minimum fee of fifty dollars must be  
18 remitted with the application. In no case will the examination fee for  
19 a storage project be less than fifty dollars or more than twenty five  
20 thousand dollars. No fee is required under this subsection (2) for an  
21 application filed by a party to a cost reimbursement agreement made  
22 under RCW 90.03.265)) and for an application to change a storage right:

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

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

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

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

36 (3)(a) (~~For the examination of an application to transfer, change,~~  
37 ~~or amend a water right certificate, permit, or claim as authorized by~~  
38 ~~RCW 90.44.100, 90.44.105, or 90.03.380, a minimum fee of fifty dollars~~

1 must be remitted with the application. For an application for change  
2 involving an amount of water exceeding one cubic foot per second, the  
3 total examination fee shall be assessed at the rate of fifty cents per  
4 one hundredth cubic foot per second. For an application for change of  
5 a storage water right, the total examination fee shall be assessed at  
6 the rate of one dollar for each acre foot of water involved in the  
7 change. The fee shall be based on the amount of water subject to  
8 change as proposed in the application, not on the total amount of water  
9 reflected in the water right certificate, permit, or claim. In no case  
10 will the examination fee charged for a change application be less than  
11 fifty dollars or more than twelve thousand five hundred dollars.

12 ~~(b))~~ (i) The fee paid to the department for an application for  
13 change filed with a water conservancy board under chapter 90.80 RCW  
14 must be one-fifth of the amounts provided in subsections (1) and (2) of  
15 this section. A conservancy board may charge its own processing fees  
16 in accordance with RCW 90.80.060.

17 (ii) The fees in subsections (1) and (2) of this section do not  
18 apply to applicants that have entered into a cost-reimbursement  
19 agreement with the department under RCW 90.03.265.

20 (b) The examination fee for a temporary or seasonal change under  
21 RCW 90.03.390 is ((fifty)) two hundred dollars and must be remitted  
22 with the application.

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

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

26 (ii) An application to process a change when the department  
27 otherwise acquires a trust water right for purposes of improving  
28 instream flows or for other public purposes( (+

29 ~~(iii) An application filed with a water conservancy board according~~  
30 ~~to chapter 90.80 RCW or for the review of a water conservancy board's~~  
31 ~~record of decision submitted to the department according to chapter~~  
32 ~~90.80 RCW; or~~

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

35 (d) For a change, transfer, or amendment involving a single project  
36 operating under more than one water right, including related secondary  
37 diversion rights, or involving the consolidation of multiple water

1 rights, only one examination fee and one certificate fee are required  
2 to be paid.

3 ~~(4) ((The fifty-dollar minimum fee payable with the application~~  
4 ~~shall be a credit to the total amount whenever the examination fee~~  
5 ~~totals more than fifty dollars under the schedule specified in~~  
6 ~~subsections (1) through (3) of this section and in such case the~~  
7 ~~further fee due shall be the total computed amount, less the amount~~  
8 ~~previously paid. Within five working days from receipt of an~~  
9 ~~application, the department shall notify the applicant by registered~~  
10 ~~mail of any additional fees due under subsections (1) through (3) of~~  
11 ~~this section.))~~ (a) The fee amounts specified in this section apply to  
12 applications received after the effective date of this section and to  
13 all applications that have not been acted on by the department by  
14 issuance of a report of examination as of the effective date of this  
15 section. For pending applications that were filed prior to the  
16 effective date of this section, any fees that were paid under a  
17 previous fee schedule must be credited to the amounts required by  
18 subsections (1), (2), and (3) of this section. When the department is  
19 prepared to take action on an application that was filed prior to the  
20 effective date of this section, the department shall notify the  
21 applicant that additional fees are due and give the applicant sixty  
22 days to remit the additional fees. If the applicant fails to remit the  
23 additional fees within the time provided, the department shall cancel  
24 the application and inform the applicant of the cancellation.

25 (b) If the department receives a water right, change, transfer,  
26 amendment, or storage application that does not include remittance of  
27 the fee amounts required by this section, the department shall return  
28 the application to the applicant with instructions on the proper fee  
29 amount to be remitted. An application does not establish a priority  
30 date until the proper fee is remitted.

31 ~~(5) The ((fees specified in subsections (1) through (3) of this~~  
32 ~~section do not apply to any filings))~~ fee for filing an emergency  
33 withdrawal authorization(~~s~~) or temporary drought-related water right  
34 change(~~s~~) authorized under RCW 43.83B.410 that (~~are~~) is received by  
35 the department while a drought condition order issued under RCW  
36 43.83B.405 is in effect is one hundred dollars.

37 (6) For applying for each extension of time for beginning  
38 construction work under a permit to appropriate water, for completion

1 of construction work, or for completing application of water to a  
2 beneficial use, a fee of two hundred fifty dollars is required. These  
3 fees also apply to similar extensions of time requested under a change  
4 or transfer authorization.

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

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

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

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

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

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

31 (13) For the registration of a new permit exempt groundwater  
32 withdrawal as required by RCW 90.44.050, a fee of three hundred dollars  
33 must be remitted.

34 (14)(a) Each person who holds a water right permit application, a  
35 reservoir permit application, or a change, transfer, or amendment  
36 application that is pending at any time between the effective date of  
37 this section and June 30, 2011, must remit a one-time fee of two  
38 hundred dollars to the department to retain an application in good

1 standing. The department shall provide written notice by certified  
2 mail to each holder of an application for the fees that are due under  
3 this section. The notice must require that the fees be paid within  
4 sixty days of the date of receipt, but in no case may payment be due  
5 later than June 30, 2011. For ease of administration, the department  
6 may distribute the issuance of the notices by geographic area. The  
7 surcharge paid under this subsection is a credit against the  
8 application fees required in this section.

9 (b) Applications not in good standing must be canceled. The  
10 department shall issue an order to any holder of an application who  
11 fails to pay the fee within the prescribed time. The order must state  
12 that the application is canceled unless payment is received within  
13 thirty days.

14 (c) The department shall advise an applicant and provide an  
15 opportunity for an applicant to withdraw their application without  
16 further payment of fees if the department determines that the  
17 application would not likely be approved. The department shall  
18 summarize the basis for its conclusion to the applicant. The  
19 department shall further advise that the applicant has the option of  
20 providing an amended application that could include storage or other  
21 resource management technique that might make it approvable under RCW  
22 90.03.255 or 90.44.055. The department's advice is not subject to  
23 appeal. If the applicant decides to retain the application on file and  
24 pays the fee required in this subsection, the department shall maintain  
25 the application in good standing until it is able to render a final  
26 decision on the application. The final decision is subject to appeal  
27 to the pollution control hearings board as provided under chapter  
28 43.21B RCW.

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

1 paid in full. Failure to remit fees within sixty days of the  
2 department's notification is grounds for rejecting the application or  
3 request or canceling the permit. Cash shall not be accepted. Fees  
4 must be paid by check or money order and are nonrefundable.

5 ~~((+14))~~ (16) For purposes of calculating fees for groundwater  
6 filings, one cubic foot per second shall be regarded as equivalent to  
7 four hundred fifty gallons per minute.

8 ~~((+15) Eighty percent of the fees collected by the department under  
9 this section shall be deposited in the state general fund. Twenty  
10 percent of the fees collected by the department under this section  
11 shall be deposited in the water rights tracking system account  
12 established in RCW 90.14.240.~~

13 ~~(16) Except for the fees relating to the inspection of hydraulic  
14 works and the examination of plans and specifications of controlling  
15 works provided for in subsections (7) and (8) of this section, nothing  
16 in this section is intended to grant authority to the department to  
17 amend the fees in this section by adoption of rules or otherwise.)~~

18 (17) The fees collected by the department under this section must be  
19 deposited in the water rights processing and dam safety account created  
20 in section 14 of this act.

21 (18)(a) The fees specified in this section are effective until the  
22 department adopts rules that modify them in accordance with section 18  
23 of this act, except that the fees required in subsections (7) and (8)  
24 of this section may be modified at any time.

25 (b) When information has been previously obtained that directly  
26 relates to the processing of an application in subsections (1) and (2)  
27 of this section, the department must proportionately reduce the fees  
28 associated with that application as a result of the reduced workload of  
29 the department.

30 NEW SECTION. Sec. 16. A new section is added to chapter 90.03 RCW  
31 to read as follows:

32 Within existing appropriations, the department must provide grant  
33 funds to assist applicants in the payment of fees required in RCW  
34 90.03.470. The department shall give priority in the distribution of  
35 grant money to applicants who designate on their application that the  
36 water will be used for agricultural purposes.

1       **Sec. 17.** RCW 90.44.050 and 2003 c 307 s 1 are each amended to read  
2 as follows:

3       (1) After June 6, 1945, no withdrawal of public groundwaters of the  
4 state shall be begun, nor shall any well or other works for such  
5 withdrawal be constructed, unless an application to appropriate such  
6 waters has been made to the department and a permit has been granted by  
7 it as herein provided: EXCEPT, HOWEVER, That any withdrawal of public  
8 groundwaters for stock-watering purposes, or for the watering of a lawn  
9 or of a noncommercial garden not exceeding one-half acre in area, or  
10 for single or group domestic uses in an amount not exceeding five  
11 thousand gallons a day, or as provided in RCW 90.44.052, or for an  
12 industrial purpose in an amount not exceeding five thousand gallons a  
13 day, is and shall be exempt from the provisions of this section, but,  
14 to the extent that it is regularly used beneficially, shall be entitled  
15 to a right equal to that established by a permit issued under the  
16 provisions of this chapter: PROVIDED, HOWEVER, That the department  
17 from time to time may require the person or agency making any such  
18 small withdrawal to furnish information as to the means for and the  
19 quantity of that withdrawal: PROVIDED, FURTHER, That at the option of  
20 the party making withdrawals of groundwaters of the state not exceeding  
21 five thousand gallons per day, applications under this section or  
22 declarations under RCW 90.44.090 may be filed and permits and  
23 certificates obtained in the same manner and under the same  
24 requirements as is in this chapter provided in the case of withdrawals  
25 in excess of five thousand gallons a day.

26       (2)(a) The owner of a permit exempt withdrawal established under  
27 this section, the beneficial use of which is commenced on or after the  
28 effective date of this section, must register the withdrawal with the  
29 department on a registration form provided by the department. The  
30 registration must include information regarding the ownership and  
31 intended purpose of the withdrawal, the amounts withdrawn or proposed  
32 to be withdrawn, and the location, size, depth, and other particulars  
33 regarding the well. The department shall make the registration form  
34 available on its internet site and shall accept the filing of  
35 registration forms electronically as well as by conventional mail or  
36 personal delivery.

37       (b) For each permit exempt withdrawal the beneficial use of which  
38 is commenced on or after the effective date of this section, the



1 registration form must be accompanied by a fee of three hundred  
2 dollars. Upon receiving a completed registration form and fee, the  
3 department shall make a record of the registration form and shall  
4 return a copy of the registration marked as having been received and  
5 registered.

6 (c) The well or wells being registered must be tagged in accordance  
7 with RCW 18.104.040(6). The department shall provide an identification  
8 tag for each well and shall instruct the owner to affix the tags to the  
9 wells used to withdraw water.

10 (d) Whenever the owner of a permit exempt withdrawal adds dwelling  
11 units or additional purposes for the use of the withdrawal or otherwise  
12 increases the amount of water to be withdrawn by more than twenty  
13 percent, a new registration form and fee of one hundred dollars must be  
14 filed.

15 (e) All fees collected under this section must be deposited into  
16 the water rights processing and dam safety account created in section  
17 14 of this act.

18 (3) The department may issue either an order under RCW 43.27A.190  
19 or a civil penalty under RCW 90.03.600, or both, to the owner of a new  
20 permit exempt withdrawal who fails to file the registration form and  
21 fee required in subsection (2) of this section. Before issuing an  
22 order or penalty, the department shall inform the owner in writing by  
23 registered mail with return receipt that the registration form and fee  
24 must be remitted within thirty days. An order issued under this  
25 subsection may require the owner to cease withdrawing and using water  
26 until the form and fee have been filed. If the owner continues to  
27 refuse to file the form and fee, the department may issue an order  
28 requiring that the subject well or wells be decommissioned.

29 (4) A permit exempt withdrawal, the beneficial use of which is  
30 commenced on or after the effective date of this section, that has not  
31 been registered shall not be recognized as a water right under a  
32 general adjudication of water rights held under chapter 90.03 RCW.

33 NEW SECTION. Sec. 18. A new section is added to chapter 90.03 RCW  
34 to read as follows:

35 To effectuate the purpose of fully recovering the direct  
36 administrative costs incurred by the state to process water right and  
37 storage applications under this chapter and RCW 90.44.050 and to

1 inspect and approve hydraulic works under this chapter, the department  
2 may periodically adopt rules to adjust the fees established in RCW  
3 90.03.470. Any subsequent fees adopted by rule supersede those  
4 provided in RCW 90.03.470. Before proposing to adopt any changes to  
5 the fees, the department shall consult with the policy committees of  
6 the legislature that review water resources legislation.

7 NEW SECTION. **Sec. 19.** A new section is added to chapter 90.03 RCW  
8 to read as follows:

9 (1) The department shall submit a report to the legislature prior  
10 to December 31, 2012, and biennially thereafter until December 31,  
11 2020, on the status of the backlog of applications for water right  
12 permits, the effectiveness of processing water right permit  
13 applications to a conclusion within twelve months, and the  
14 appropriateness of the fee amounts.

15 (2) This section expires January 1, 2021.

16 NEW SECTION. **Sec. 20.** A new section is added to chapter 90.44 RCW  
17 to read as follows:

18 (1) The department may not require withdrawals of groundwater to be  
19 metered or measured for wells authorized under the provisions of RCW  
20 90.44.050 constructed prior to the effective date of this section for  
21 single or group domestic uses that do not exceed withdrawing five  
22 thousand gallons a day.

23 (2) This section does not apply to wells the department has  
24 required to be metered or measured as of the effective date of this  
25 section."

EFFECT: Creates a water rights processing and dam safety account for the processing of water right applications and change applications, and the safety inspection of hydraulic works and plans and specifications. Adjusts fees relating to the processing of water right applications and change applications. Creates a permit exempt well registry with a registration fee for new wells. Requires the Washington state department of ecology (DOE) to adjust the water right application fees on a periodic basis to reflect the direct administrative costs incurred in the processing of water right

applications and change applications and the safety inspection of hydraulic works and plans and specifications. Requires the DOE to report biennially to the legislature until December 31, 2020.

Prohibits metering on any permit exempt well constructed prior to the effective date of the section used for single or group domestic uses.

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