CERTIFICATION OF ENROLLMENT

**SENATE BILL 5585**

67th Legislature

2022 Regular Session

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| Passed by the Senate March 8, 2022  Yeas 29 Nays 20  **President of the Senate**  Passed by the House March 4, 2022  Yeas 57 Nays 41  **Speaker of the House of Representatives** | CERTIFICATE  I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5585** as passed by the Senate and the House of Representatives on the dates hereon set forth.  Secretary |
| Approved |  |
| **Governor of the State of Washington** | **Secretary of State**  **State of Washington** |

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**SENATE BILL 5585**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2022 Regular Session

**State of Washington 67th Legislature 2022 Regular Session**

**By** Senators Rolfes and Das; by request of Department of Ecology

AN ACT Relating to setting domestic wastewater discharge fees; reenacting and amending RCW 90.48.465; creating new sections; and providing an expiration date.

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

**Sec.**  RCW 90.48.465 and 2009 c 456 s 6 and 2009 c 249 s 1 are each reenacted and amended to read as follows:

(1) The department shall establish fees to collect expenses for issuing and administering each class of permits under RCW 90.48.160, 90.48.162, and 90.48.260. An initial fee schedule shall be established by rule and be adjusted no more often than once every two years. This fee schedule shall apply to all permits, regardless of date of issuance, and fees shall be assessed prospectively. All fees charged shall be based on factors relating to the complexity of permit issuance and compliance and may be based on pollutant loading and toxicity and be designed to encourage recycling and the reduction of the quantity of pollutants. Fees shall be established in amounts to fully recover and not to exceed expenses incurred by the department in processing permit applications and modifications, monitoring and evaluating compliance with permits, conducting inspections, securing laboratory analysis of samples taken during inspections, reviewing plans and documents directly related to operations of permittees, overseeing performance of delegated pretreatment programs, and supporting the overhead expenses that are directly related to these activities.

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

~~(3)~~)) The department shall ensure that indirect dischargers do not pay twice for the administrative expense of a permit. Accordingly, administrative expenses for permits issued by a municipality under RCW 90.48.165 are not recoverable by the department.

((~~(4)~~)) (3) In establishing fees, the department shall consider the economic impact of fees on small dischargers and the economic impact of fees on public entities required to obtain permits for stormwater runoff and shall provide appropriate adjustments.

((~~(5)~~)) (4) The fee for an individual permit issued for a dairy farm as defined under chapter 90.64 RCW shall be fifty cents per animal unit up to one thousand two hundred fourteen dollars for fiscal year 1999. The fee for a general permit issued for a dairy farm as defined under chapter 90.64 RCW shall be fifty cents per animal unit up to eight hundred fifty dollars for fiscal year 1999. Thereafter, these fees may rise in accordance with the fiscal growth factor as provided in chapter 43.135 RCW.

((~~(6)~~)) (5) The fee for a general permit or an individual permit developed solely as a result of the federal court of appeals decision in *Headwaters, Inc. v. Talent Irrigation District*, 243 F.3rd 526 (9th Cir. 2001) is limited, until June 30, 2003, to a maximum of three hundred dollars. Such a permit is required only, and as long as, the interpretation of this court decision is not overturned or modified by future court rulings, administrative rule making, or clarification of scope by the United States environmental protection agency or legislative action. In such a case the department shall take appropriate action to rescind or modify these permits.

((~~(7)~~)) (6) All fees collected under this section shall be deposited in the water quality permit account hereby created in the state treasury. Moneys in the account may be appropriated only for purposes of administering permits under RCW 90.46.220, 90.48.160, 90.48.162, and 90.48.260.

((~~(8)~~)) (7) The department shall present a biennial progress report on the use of moneys from the account to the legislature. The report will be due December 31st of odd-numbered years. The report shall consist of information on fees collected, actual expenses incurred, and anticipated expenses for the current and following fiscal years.

NEW SECTION. **Sec.**  (1)(a) Recognizing the importance of close coordination and partnership between the department of ecology and municipal treatment plants, the department shall form an advisory committee, appointed by the director of ecology or the director's designee, to create recommendations for adjusting the fee schedule for permits authorized by RCW 90.48.162 and 90.48.165 by rule. The advisory committee must include:

(i) Two representatives of permitted facilities representing communities of 25,000 or fewer in population;

(ii) Two representatives of permitted facilities representing communities greater than 25,000 and up to 200,000 in population;

(iii) One representative of permitted facilities representing communities greater than 200,000 in population;

(iv) Two representatives of nonprofit environmental organizations;

(v) One representative of a statewide association representing cities;

(vi) One representative of a statewide association representing counties;

(vii) One representative of a statewide association representing special purpose districts with responsibilities for domestic wastewater; and

(viii) One representative of a statewide business association.

(b) The department must also offer tribal consultation and invite federally recognized tribes to participate on the advisory committee.

(2) By December 31, 2022, the advisory committee must submit recommendations to the department of ecology that will identify fees needed to fully recover expenses incurred by the department of ecology to administer municipal wastewater permits issued under RCW 90.48.162 and 90.48.260, as required under RCW 90.48.465(1), to include permit writing and public review, inspections and technical assistance, discharge monitoring reporting and data support, and supporting the overhead expenses related to administering the wastewater discharge permits.

(3) The advisory committee recommendations must:

(a) Assess the municipal wastewater permitting backlogs and permit workloads;

(b) Assess staffing and revenue needed to meet state and federal legal mandates and the needs of permittees; and

(c) Recommend how to structure the permit fees to reduce permitting backlogs and achieve goals for timely issuance of permits under RCW 90.48.162 and 90.48.260.

(4) The department of ecology must use these recommendations as the basis, in a manner consistent with rule-making procedures under chapter 34.05 RCW, for updates in 2023 to the relevant water quality permit fees set in chapter 173-224 WAC. The department of ecology will present the recommendations of the advisory committee to the legislature at some point after the recommendations are available through the 2023 legislative session.

(5) This section expires January 1, 2024.

NEW SECTION. **Sec.**  Beginning in 2025, the department of ecology's biennial progress report required in RCW 90.48.465(7) must include information on the implementation of a revised fee structure for full cost recovery for municipal wastewater discharge permits and the use of the fees to administer the municipal discharge permitting program and issue permits in a timely manner. The biennial report must also include information demonstrating progress towards achieving the goal of reducing the wastewater discharge permit backlog to no more than 40 percent by July 1, 2025, and not more than a 20 percent backlog by July 1, 2027.

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