

SB 5585 - H COMM AMD

By Committee on Environment & Energy

ADOPTED 03/04/2022

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

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

5 (1) The department shall establish fees to collect expenses for
6 issuing and administering each class of permits under RCW 90.48.160,
7 90.48.162, and 90.48.260. An initial fee schedule shall be
8 established by rule and be adjusted no more often than once every two
9 years. This fee schedule shall apply to all permits, regardless of
10 date of issuance, and fees shall be assessed prospectively. All fees
11 charged shall be based on factors relating to the complexity of
12 permit issuance and compliance and may be based on pollutant loading
13 and toxicity and be designed to encourage recycling and the reduction
14 of the quantity of pollutants. Fees shall be established in amounts
15 to fully recover and not to exceed expenses incurred by the
16 department in processing permit applications and modifications,
17 monitoring and evaluating compliance with permits, conducting
18 inspections, securing laboratory analysis of samples taken during
19 inspections, reviewing plans and documents directly related to
20 operations of permittees, overseeing performance of delegated
21 pretreatment programs, and supporting the overhead expenses that are
22 directly related to these activities.

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

28 ~~(3))~~ The department shall ensure that indirect dischargers do
29 not pay twice for the administrative expense of a permit.
30 Accordingly, administrative expenses for permits issued by a

1 municipality under RCW 90.48.165 are not recoverable by the
2 department.

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

7 ~~((5))~~ (4) The fee for an individual permit issued for a dairy
8 farm as defined under chapter 90.64 RCW shall be fifty cents per
9 animal unit up to one thousand two hundred fourteen dollars for
10 fiscal year 1999. The fee for a general permit issued for a dairy
11 farm as defined under chapter 90.64 RCW shall be fifty cents per
12 animal unit up to eight hundred fifty dollars for fiscal year 1999.
13 Thereafter, these fees may rise in accordance with the fiscal growth
14 factor as provided in chapter 43.135 RCW.

15 ~~((6))~~ (5) The fee for a general permit or an individual permit
16 developed solely as a result of the federal court of appeals decision
17 in *Headwaters, Inc. v. Talent Irrigation District*, 243 F.3rd 526 (9th
18 Cir. 2001) is limited, until June 30, 2003, to a maximum of three
19 hundred dollars. Such a permit is required only, and as long as, the
20 interpretation of this court decision is not overturned or modified
21 by future court rulings, administrative rule making, or clarification
22 of scope by the United States environmental protection agency or
23 legislative action. In such a case the department shall take
24 appropriate action to rescind or modify these permits.

25 ~~((7))~~ (6) All fees collected under this section shall be
26 deposited in the water quality permit account hereby created in the
27 state treasury. Moneys in the account may be appropriated only for
28 purposes of administering permits under RCW 90.46.220, 90.48.160,
29 90.48.162, and 90.48.260.

30 ~~((8))~~ (7) The department shall present a biennial progress
31 report on the use of moneys from the account to the legislature. The
32 report will be due December 31st of odd-numbered years. The report
33 shall consist of information on fees collected, actual expenses
34 incurred, and anticipated expenses for the current and following
35 fiscal years.

36 NEW SECTION. **Sec. 2.** (1)(a) Recognizing the importance of close
37 coordination and partnership between the department of ecology and
38 municipal treatment plants, the department shall form an advisory
39 committee, appointed by the director of ecology or the director's

1 designee, to create recommendations for adjusting the fee schedule
2 for permits authorized by RCW 90.48.162 and 90.48.165 by rule. The
3 advisory committee must include:

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

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

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

10 (iv) Two representatives of nonprofit environmental
11 organizations;

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

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

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

19 (viii) One representative of a statewide business association.

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

22 (2) By December 31, 2022, the advisory committee must submit
23 recommendations to the department of ecology that will identify fees
24 needed to fully recover expenses incurred by the department of
25 ecology to administer municipal wastewater permits issued under RCW
26 90.48.162 and 90.48.260, as required under RCW 90.48.465(1), to
27 include permit writing and public review, inspections and technical
28 assistance, discharge monitoring reporting and data support, and
29 supporting the overhead expenses related to administering the
30 wastewater discharge permits.

31 (3) The advisory committee recommendations must:

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

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

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

39 (4) The department of ecology must use these recommendations as
40 the basis, in a manner consistent with rule-making procedures under

1 chapter 34.05 RCW, for updates in 2023 to the relevant water quality
2 permit fees set in chapter 173-224 WAC. The department of ecology
3 will present the recommendations of the advisory committee to the
4 legislature at some point after the recommendations are available
5 through the 2023 legislative session.

6 (5) This section expires January 1, 2024.

7 NEW SECTION. **Sec. 3.** Beginning in 2025, the department of
8 ecology's biennial progress report required in RCW 90.48.465(7) must
9 include information on the implementation of a revised fee structure
10 for full cost recovery for municipal wastewater discharge permits and
11 the use of the fees to administer the municipal discharge permitting
12 program and issue permits in a timely manner. The biennial report
13 must also include information demonstrating progress towards
14 achieving the goal of reducing the wastewater discharge permit
15 backlog to no more than 40 percent by July 1, 2025, and not more than
16 a 20 percent backlog by July 1, 2027."

17 Correct the title.

EFFECT: Adds representatives to the newly formed advisory committee that must recommend permit fee adjustments for municipal wastewater facilities: One from a permitted facility serving more than 200,000 people; one from a special purpose district; and requires the Department of Ecology (Ecology) to offer tribal consultation and invite federally recognized tribes to participate.

Clarifies that the goal of the advisory committee's task to recommend a permit fee structure is to reduce permitting backlogs and issue permits in a timely manner.

Requires Ecology to present the advisory committee recommendations to the legislature at some time once they are available through the 2023 legislative session.

Requires that Ecology's biennial progress report on the use of permit fees include information: (1) On the implementation of a revised fee structure for municipal wastewater discharge permits; and (2) demonstrating progress towards goals for reducing the wastewater discharge permit backlog.

--- END ---