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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

Prefiled 12/22/21. Read first time 01/10/22. Referred to Committee on Environment, Energy & Technology.

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

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

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

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

1 operations of permittees, overseeing performance of delegated  
2 pretreatment programs, and supporting the overhead expenses that are  
3 directly related to these activities.

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

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

14 ~~((4))~~ (3) In establishing fees, the department shall consider  
15 the economic impact of fees on small dischargers and the economic  
16 impact of fees on public entities required to obtain permits for  
17 stormwater runoff and shall provide appropriate adjustments.

18 ~~((5))~~ (4) The fee for an individual permit issued for a dairy  
19 farm as defined under chapter 90.64 RCW shall be fifty cents per  
20 animal unit up to one thousand two hundred fourteen dollars for  
21 fiscal year 1999. The fee for a general permit issued for a dairy  
22 farm as defined under chapter 90.64 RCW shall be fifty cents per  
23 animal unit up to eight hundred fifty dollars for fiscal year 1999.  
24 Thereafter, these fees may rise in accordance with the fiscal growth  
25 factor as provided in chapter 43.135 RCW.

26 ~~((6))~~ (5) The fee for a general permit or an individual permit  
27 developed solely as a result of the federal court of appeals decision  
28 in *Headwaters, Inc. v. Talent Irrigation District*, 243 F.3rd 526 (9th  
29 Cir. 2001) is limited, until June 30, 2003, to a maximum of three  
30 hundred dollars. Such a permit is required only, and as long as, the  
31 interpretation of this court decision is not overturned or modified  
32 by future court rulings, administrative rule making, or clarification  
33 of scope by the United States environmental protection agency or  
34 legislative action. In such a case the department shall take  
35 appropriate action to rescind or modify these permits.

36 ~~((7))~~ (6) All fees collected under this section shall be  
37 deposited in the water quality permit account hereby created in the  
38 state treasury. Moneys in the account may be appropriated only for  
39 purposes of administering permits under RCW 90.46.220, 90.48.160,  
40 90.48.162, and 90.48.260.

1       (~~(8)~~) (7) The department shall present a biennial progress  
2 report on the use of moneys from the account to the legislature. The  
3 report will be due December 31st of odd-numbered years. The report  
4 shall consist of information on fees collected, actual expenses  
5 incurred, and anticipated expenses for the current and following  
6 fiscal years.

7       NEW SECTION.   **Sec. 2.**   (1)(a) Recognizing the importance of close  
8 coordination and partnership between the department of ecology and  
9 municipal treatment plants, the department shall form an advisory  
10 committee, appointed by the director of ecology or the director's  
11 designee, to create recommendations for adjusting the fee schedule  
12 for permits authorized by RCW 90.48.162 and 90.48.165 by rule. The  
13 advisory committee must include:

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

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

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

20       (iv) Two representatives of nonprofit environmental  
21 organizations;

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

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

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

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

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

32       (2) By December 31, 2022, the advisory committee must submit  
33 recommendations to the department of ecology that will identify fees  
34 needed to fully recover expenses incurred by the department of  
35 ecology to administer municipal wastewater permits issued under RCW  
36 90.48.162 and 90.48.260, as required under RCW 90.48.465(1), to  
37 include permit writing and public review, inspections and technical  
38 assistance, discharge monitoring reporting and data support, and

1 supporting the overhead expenses related to administering the  
2 wastewater discharge permits.

3 (3) The advisory committee recommendations must:

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

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

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

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

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

19 NEW SECTION. **Sec. 3.** Beginning in 2025, the department of  
20 ecology's biennial progress report required in RCW 90.48.465(7) must  
21 include information on the implementation of a revised fee structure  
22 for full cost recovery for municipal wastewater discharge permits and  
23 the use of the fees to administer the municipal discharge permitting  
24 program and issue permits in a timely manner. The biennial report  
25 must also include information demonstrating progress towards  
26 achieving the goal of reducing the wastewater discharge permit  
27 backlog to no more than 40 percent by July 1, 2025, and not more than  
28 a 20 percent backlog by July 1, 2027.

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