

58:2-1. Payment in the case of diversion of surface water supplies; exception

Every municipality, corporation or private person diverting the waters of streams or lakes with outlets for the purpose of a public water supply shall make annual payments on May first to the state treasurer for all such water diverted in excess of a total amount equal to one hundred gallons daily for each inhabitant of the municipality or municipalities supplied, as shown by the census of one thousand nine hundred and five, or in excess of such greater amount as it may have been legally diverting on June seventeenth, one thousand nine hundred and seven.

The provisions contained in this chapter as to payment to the state for water diverted from surface sources shall not apply to waters obtained from wells, except as provided in section 58:2-4 of this title.

58:2-2. Fixing of charges for surface waters diverted; review

Payment for water diverted as provided in R.S. 58:2-1 shall be deemed to be a license and its amount shall be fixed by the department at a rate of not less than \$1.00 nor more than \$10.00 per million gallons. If at all times an amount equal to the average daily flow for the driest month, as shown by the existing records, or in lieu thereof 125,000 gallons daily for each square mile of unappropriated watershed above the point of diversion, shall be allowed to flow down the stream. The department shall fix the minimum rate and may increase the rate proportionally as a lesser amount is allowed to flow down the stream below the point of diversion, due account being taken in fixing said increase both of the duration and amount of the deficiency. The aforesaid 125,000 gallons daily for each square mile of unappropriated watershed shall be additional to the dry-season flow or any part thereof which may be allowed to flow from any appropriated watershed or watersheds above the point of diversion.

Water diverted within the corporate limits of a municipality for manufacturing and fire purposes only and returned without pollution to the stream from which it was taken within said corporate limits shall not be reckoned in making up the aggregate amount diverted.

Any party aggrieved by the action of the department upon filing written complaint on or before March twentieth, shall be heard and permitted to give evidence of the facts, and the sum fixed may be changed, reduced, or cancelled, as the facts may warrant.

Amended by L.1981, c. 262, s. 21, eff. Aug. 13, 1981.

58:2-3. Certification and collection of amounts due; disposition

The department shall annually certify to the State Comptroller, as soon as practicable after January first, and not later than February fifteenth, the names of all municipalities, corporations or private persons owing money to the State for the diversion of water during the preceding year, with the amounts so due.

The State Comptroller shall promptly notify said municipalities, water companies or persons of their indebtedness to the State, and if said amounts are not paid to the State Treasurer on or before July first of the same year, the State Comptroller shall certify to the Attorney-General for collection the names of the delinquents and the amounts due from each, and the Attorney-General shall take immediate steps to collect the same in the name of the State.

All sums received as herein provided shall be deposited to the credit of the State and deemed as part of the Environmental Services Fund. The Legislature shall annually appropriate an amount equivalent to the amount anticipated to be collected as sums charged under this section in support of the water management programs.

Amended by L.1950, c. 44, p. 83, s. 1; 1981, c. 262, s. 22, eff. Aug. 13, 1981.

58:2-4. Payment in the case of condemnation of subsurface, well or percolating water supplies

In the case of the condemnation of subsurface, well or percolating water supplies, there shall be charged by the State a fee of \$1.00 per million gallons from that portion of the supply for the acquisition of which the State's right of eminent domain is exercised for all water diverted, which charge shall be certified to the State Comptroller by the department and its collection shall be enforced in the same manner as

hereinbefore in this chapter provided in the case of excess diversion of surface water supplies.

Amended by L.1981, c. 262, s. 23, eff. Aug. 13, 1981.

58:2-5. Saving clause

Nothing in this chapter shall be construed to confer upon any municipality, corporation or person, any franchise not already possessed by said municipality, corporation or person, but the approval of the department contained in its decision as provided in this chapter, shall constitute the assent of the State to the diversion of water as against the State in accordance with the terms of said decision.

Amended by L.1981, c. 262, s. 24, eff. Aug. 13, 1981.