
SUBSTITUTE HOUSE BILL 2733

State of Washington 62nd Legislature 2012 Regular Session

By House Transportation (originally sponsored by Representatives
Jenkins, Upthegrove, and Clibborn)

READ FIRST TIME 02/07/12.

1 AN ACT Relating to rates and charges for storm water control
2 facilities; amending RCW 90.03.525; and providing an effective date.

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

4 **Sec. 1.** RCW 90.03.525 and 2005 c 319 s 140 are each amended to
5 read as follows:

6 (1)(a) The rate charged by a local government utility to the
7 department of transportation with respect to state highway right-of-way
8 or any section of state highway right-of-way for the construction,
9 operation, and maintenance of storm water control facilities under
10 chapters 35.67, 35.92, 36.89, 36.94, 57.08, and 86.15 RCW, shall be
11 thirty percent of the rate for comparable real property, except as
12 otherwise provided in this section. (~~The rate charged to the~~
13 ~~department with respect to state highway right of way or any section of~~
14 ~~state highway right of way within a local government utility's~~
15 ~~jurisdiction shall not, however, exceed the rate charged for comparable~~
16 ~~city street or county road right of way within the same jurisdiction.~~)

17 (b) If a local government utility does not charge the department of
18 transportation under (a) of this subsection during fiscal year 2013,
19 the rate charged shall be ten percent of the rate for comparable real

1 property during fiscal year 2014, twenty percent of the rate for
2 comparable real property during fiscal year 2015, and thirty percent of
3 the rate for comparable real property during fiscal year 2016 and
4 thereafter.

5 (c) The rate charged by a local government utility to its own or to
6 another local government's streets or roads for the construction,
7 operation, and maintenance of storm water control facilities may be the
8 same maximum rate as charged by the local government utility to the
9 department of transportation under (a) and (b) of this subsection, or
10 such other rate, or no rate, as may be determined by the legislative
11 authority of that local government utility, in its sole discretion and
12 in consideration of the continuing expenditures of the local government
13 utility for the construction, operation, and maintenance of storm water
14 control facilities designed to control surface water or storm water
15 runoff from local streets or roads.

16 (d) The legislature finds that the ((aforesaid)) rates charged to
17 the department of transportation under (a) and (b) of this subsection
18 are presumptively fair and equitable because of the traditional and
19 continuing expenditures of the department of transportation, cities,
20 and counties for the construction, operation, and maintenance of storm
21 water control facilities designed to control surface water or storm
22 water runoff from state highway rights-of-way.

23 (2) Charges paid under subsection (1)(a) and (b) of this section by
24 the department of transportation must be used solely for storm water
25 control facilities that ((directly)) reduce state highway runoff
26 impacts or ((implementation of)) that implement best management
27 practices that will reduce the need for such facilities. ((By January
28 1st of each year, beginning with calendar year 1997, the local
29 government utility, in coordination with the department, shall develop
30 a plan for the expenditure of the charges for that calendar year. The
31 plan must be consistent with the objectives identified in RCW
32 90.78.010. In addition, beginning with the submittal for 1998, the
33 utility shall provide a progress report on the use of charges assessed
34 for the prior year. No charges may be paid until the plan and report
35 have been submitted to the department.)) Through a planning and
36 reporting process, local government utilities shall clearly demonstrate
37 that charges paid under subsection (1)(a) and (b) of this section by
38 the department of transportation are being used as required under this

1 subsection. Local government utilities and the department of
2 transportation shall develop this simplified planning and reporting
3 process for storm water fees, which may include a determination of the
4 comparable property upon which the rate charged to the department of
5 transportation is based.

6 (3) The utility imposing the charge and the department of
7 transportation may, however, agree to either higher or lower rates with
8 respect to the construction, operation, or maintenance of any specific
9 storm water control facilities (~~based upon the annual plan prescribed~~
10 ~~in subsection (2) of this section~~). If, after mediation, the local
11 government utility and the department of transportation cannot agree
12 upon the proper rate, either may commence an action in the superior
13 court for the county in which the state highway right-of-way is located
14 to establish the proper rate. The court in establishing the proper
15 rate shall take into account the extent and adequacy of storm water
16 control facilities constructed by the department and the actual
17 benefits to the sections of state highway rights-of-way from storm
18 water control facilities constructed, operated, and maintained by the
19 local government utility. Control of surface water runoff and storm
20 water runoff from state highway rights-of-way shall be deemed an actual
21 benefit to the state highway rights-of-way. The rate for sections of
22 state highway right-of-way as determined by the court shall be set
23 forth in terms of the percentage of the rate for comparable real
24 property(~~, but shall in no event exceed the rate charged for~~
25 ~~comparable city street or county road right of way within the same~~
26 ~~jurisdiction~~)).

27 (4) The legislature finds that the federal clean water act
28 (national pollutant discharge elimination system, 40 C.F.R. parts 122-
29 124), the state water pollution control act, chapter 90.48 RCW, and the
30 highway runoff program under chapter 90.71 RCW, mandate the treatment
31 and control of storm water runoff from state highway rights-of-way
32 owned by the department of transportation. Appropriations made by the
33 legislature to the department of transportation for the construction,
34 operation, and maintenance of storm water control facilities are
35 intended to address applicable federal and state mandates related to
36 storm water control and treatment. This section is not intended to
37 limit opportunities for sharing the costs of storm water improvements
38 between cities, counties, and the state.

1 (5) When the amounts charged by local government utilities under
2 subsection (1)(a) and (b) of this section exceed the amount of funds
3 that are appropriated for this purpose, the department of
4 transportation must request supplemental appropriations from the
5 legislature.

6 NEW SECTION. **Sec. 2.** This act takes effect July 1, 2013.

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