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SECOND SUBSTITUTE HOUSE BILL 2847

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State of Washington

57th Legislature

2002 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Cooper, Roach, Berkey, Cairnes, Linville, Esser, Kirby, Reardon, Casada, Doumit, Ogden, Chase and Pearson)

Read first time 02/11/2002. Referred to Committee on .

1 AN ACT Relating to evaluating the performance of the state storm  
2 water program; adding a new section to chapter 77.85 RCW; adding new  
3 sections to chapter 90.48 RCW; creating new sections; providing an  
4 expiration date; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that preserving  
7 water quality and avoiding further degradation of already degraded  
8 waters are clear priorities for Washington state. Storm water  
9 management, particularly in urban areas and growing communities,  
10 presents a tremendous challenge for maintaining and improving water  
11 quality. The legislature finds that consistent and predictable  
12 standards for storm water management across multiple state, federal,  
13 and local jurisdictions is imperative for the state to achieve  
14 environmental protection in a cost-effective manner.

15 (2) The legislature also finds that storm water management must  
16 satisfy state and federal water quality requirements while also  
17 providing state and local agencies, development interests, and others  
18 with a flexible set of tools and alternatives that can help ensure  
19 cost-effective storm water management. The legislature recognizes

1 that, in attempting to address these needs, the department of ecology,  
2 working with other agencies and stakeholders, has developed a storm  
3 water manual for western Washington, and is in the process of  
4 developing a storm water manual for eastern Washington. The  
5 legislature also recognizes that manuals are designed to be used as  
6 guidelines for addressing storm water impacts resulting from  
7 development, road construction projects, wastewater discharge, and  
8 other actions that affect streams, waterways, and hydrological  
9 conditions. Although the department of ecology has made a good faith  
10 effort to develop the storm water manual in a manner that has utilized  
11 scientifically based information and involved input from various  
12 affected parties, the legislature finds that there has been no explicit  
13 statutory direction or guidance provided to the department of ecology  
14 and other resource agencies in addressing storm water management. The  
15 legislature therefore believes that the legislature should be involved  
16 in the state's development of a storm water management process that  
17 protects natural resources, and compliance with federal and state water  
18 quality requirements, while providing implementation flexibility.

19 (3) The legislature further finds that the state has made  
20 considerable investments in supporting watershed management, including  
21 creation of data bases, organizational capacity building for watershed  
22 councils, and watershed planning efforts for salmon recovery, ground  
23 water protection, water supply, and flood management. The legislature  
24 believes there may be significant efficiencies to be gained by  
25 integrating storm water into a multijurisdictional watershed approach  
26 in addition to the current focus on managing storm water on a project-  
27 by-project basis. The legislature also believes a watershed approach  
28 may allow state and local government to prioritize infrastructure  
29 investment and develop effective storm water management strategies.  
30 While a significant measure of on-site storm water management,  
31 retention, and detention should be an element of any given project, the  
32 legislature believes that, in some circumstances, on-site management  
33 could be combined with flexible, watershed-based mitigation tools such  
34 as off-site mitigation, mitigation sequencing, and the acquisition or  
35 restoration of habitat. Therefore, the legislature finds that, where  
36 appropriate, on-site practicability analysis, innovations, and  
37 incentives for alternative storm water management strategies, and  
38 retrofit strategies for existing impervious surfaces within project  
39 boundaries should be evaluated.

1 (4) In addition, the legislature finds that significant  
2 fragmentation in authority exists among local, state, and federal  
3 agencies in managing storm water and that these agencies can better  
4 coordinate standards, practices, and approaches for managing storm  
5 water. The legislature believes state agencies and local governments  
6 and, where appropriate, federal and tribal governments should identify  
7 streamlining opportunities to address and improve coordination of storm  
8 water management authority exercised by local, state, and federal  
9 jurisdictions.

10 (5) Finally, the legislature acknowledges and encourages the  
11 appropriate use of flexibility in storm water management. To assist  
12 the legislature in reviewing the progress of storm water management,  
13 the legislature finds that scientific reviews and cost-benefit analysis  
14 of the storm water manual must be undertaken. In addition, the  
15 legislature finds that a storm water advisory group should analyze and  
16 make recommendations for flexible implementation of storm water  
17 management programs.

18 NEW SECTION. **Sec. 2.** A new section is added to chapter 77.85 RCW  
19 to read as follows:

20 (1) The independent science panel created in RCW 77.85.040 must  
21 review the department of ecology's storm water manual for western  
22 Washington, dated August 31, 2001. The panel must:

23 (a) Determine what scientific information was used to develop the  
24 manual, with particular attention to the development of management  
25 practices and thresholds. The department of ecology must make all  
26 information utilized in the development of the manual available to the  
27 panel;

28 (b) Determine whether the recommendations in the manual are  
29 supportable by the cited science. If the manual's recommendations are  
30 based on inadequate scientific support, the panel must identify what  
31 specific scientific studies are needed to address any identified  
32 limitations.

33 (2) The panel must determine whether the recommendations for  
34 alternative watershed-based storm water practices for flow control and  
35 water quality treatment developed by the storm water advisory committee  
36 established under section 3 of this act are supportable by the cited  
37 science. If the recommendations are based on inadequate scientific

1 support, the panel must identify what specific scientific studies are  
2 needed to address any identified limitations.

3 (3) In accordance with the provisions of RCW 77.85.040, the panel  
4 may contract with, or otherwise identify and consult with, other  
5 recognized experts in hydrology, stream geomorphology, water quality,  
6 and storm water management in fulfilling the duties specified in this  
7 section.

8 (4) The panel must report its results for the storm water manual  
9 for western Washington by December 31, 2002.

10 NEW SECTION. **Sec. 3.** A new section is added to chapter 90.48 RCW  
11 to read as follows:

12 (1) The department shall convene a storm water advisory committee  
13 to coordinate and assist with implementation of storm water management  
14 in Washington. The storm water advisory committee shall be  
15 representative of storm water interests from both eastern and western  
16 Washington and shall include representatives from urban and rural areas  
17 and arid and wet climates. The storm water advisory committee shall  
18 consist of no more than eighteen members. The storm water advisory  
19 committee shall include at least one representative of the department,  
20 the department of natural resources, the department of fish and  
21 wildlife, and the department of transportation. The storm water  
22 advisory committee also shall include at least one representative of  
23 each of the following interests, selected by the associations  
24 representing those interests: Counties, cities, port districts,  
25 environmental organizations, general contractors, commercial and  
26 industrial developers, agricultural organizations, and businesses.

27 (2) The department shall invite and encourage representatives from  
28 federal agencies and tribes to participate in the storm water advisory  
29 committee.

30 (3) The storm water advisory committee shall work with the  
31 department and with the department's eastern Washington storm water  
32 steering committee to:

33 (a) Improve coordination between state and local government  
34 agencies on storm water management, including the appropriate use of  
35 the new storm water manuals and a streamlined permit process with  
36 consistent outcomes and goals;

37 (b) Develop recommendations for alternative watershed-based  
38 practices for flow control and water quality treatment utilizing

1 watershed planning to assess the use of regional storm water facilities  
2 to augment or as an alternative to site-by-site storm water controls;

3 (c) Study, evaluate, and make recommendations on the feasibility of  
4 alternative storm water management approaches in highly urbanized areas  
5 and how best to address severely impaired water bodies in highly  
6 urbanized areas;

7 (d) Study the appropriate use of off-site watershed-based  
8 mitigation for storm water flow and water quality impacts. The study  
9 shall address issues related to stream flow and water quality impacts  
10 on fish species and other aquatic uses;

11 (e) Study, evaluate, and make recommendations on the funding needs  
12 for local governments to meet the new federal storm water regulations;

13 (f) Assist in developing the cost-benefit analysis required in  
14 section 4 of this act;

15 (g) To the maximum extent possible, coordinate efforts with the  
16 transportation permit efficiency and accountability committee  
17 established by RCW 47.06C.030. The storm water advisory committee must  
18 also build upon the 2000 storm water advisory committee report to the  
19 legislature, the independent science panel's review of the manual in  
20 section 2 of this act, and the cost-benefit analysis required in  
21 section 4 of this act; and

22 (h) Begin its work no later than July 1, 2002, and complete its  
23 work by December 31, 2003.

24 (4) The department shall provide a progress report to the  
25 legislature on storm water management issues and the approach to these  
26 issues taken by the storm water advisory committee no later than  
27 December 31, 2002.

28 NEW SECTION. **Sec. 4.** A new section is added to chapter 90.48 RCW  
29 to read as follows:

30 (1) The department shall evaluate the costs and benefits of using  
31 the storm water management manual for western Washington. Recognizing  
32 that the manual must be consistent with state and federal water quality  
33 requirements, the analysis must evaluate whether the probable benefits  
34 of the best management practices in the storm water manual exceed the  
35 probable costs of the best management practices in the storm water  
36 manual. This analysis shall take into account both the qualitative and  
37 quantitative benefits and costs of the best management practices.

1 (2) The department shall report its results for the storm water  
2 manual for western Washington to the appropriate committees of the  
3 legislature by December 31, 2002.

4 NEW SECTION. **Sec. 5.** While an integrated storm water management  
5 process is being developed, the department of ecology and other  
6 resource agencies are strongly encouraged to use flexibility in  
7 conditioning permits dealing with storm water management.

8 NEW SECTION. **Sec. 6.** This act is necessary for the immediate  
9 preservation of the public peace, health, or safety, or support of the  
10 state government and its existing public institutions, and takes effect  
11 immediately.

12 NEW SECTION. **Sec. 7.** This act expires June 30, 2004.

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