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HOUSE BILL 2847

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State of Washington

57th Legislature

2002 Regular Session

By Representatives Cooper, Roach, Berkey, Cairnes, Linville, Esser, Kirby, Reardon, Casada, Doumit, Ogden, Chase and Pearson

Read first time 01/30/2002. Referred to Committee on Agriculture & Ecology.

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 a new  
3 section to chapter 90.48 RCW; creating a new section; 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 tremendous challenge for maintaining and improving water  
11 quality. The legislature finds that development of consistent and  
12 predictable standards for storm water management across multiple state,  
13 federal, 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 provide protection of natural resources while also providing state and  
17 local agencies, development interests, and others with a flexible set  
18 of tools and alternatives that can help ensure cost-effective storm  
19 water management and detention. The legislature recognizes that, in

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

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

1 project boundaries should be evaluated in determining the storm water  
2 strategy for individual projects.

3 (4) In addition, the legislature finds that significant  
4 fragmentation in authority exists between local, state, and federal  
5 agencies in managing storm water. The legislature believes state  
6 agencies and local governments, and where appropriate, federal and  
7 tribal governments, should identify streamlining opportunities to  
8 address fragmentation between storm water authority exercised by local,  
9 state, and federal 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 analyses  
14 of the storm water management manuals must be undertaken. In addition,  
15 the legislature finds that a storm water advisory group should analyze  
16 and 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, and, upon completion, the storm  
23 water manual for eastern Washington. The panel must:

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

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

34 (2) The panel must report its results for the storm water  
35 management manual for western Washington by December 31, 2002. The  
36 panel must report its findings for the storm water management manual  
37 for eastern Washington no later than six months after the manual is  
38 completed.

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

3        (1) The department must convene a storm water advisory committee to  
4 coordinate and assist with the final development of a storm water  
5 manual for eastern Washington, and the review and implementation of the  
6 storm water management manuals for eastern and western Washington. At  
7 a minimum, the storm water advisory committee must include at least one  
8 representative selected by the following agencies and associations:  
9 The department, the department of natural resources, the department of  
10 fish and wildlife, the department of transportation, the Washington  
11 state association of counties, the association of Washington cities,  
12 the Washington environmental council, people for Puget Sound, the  
13 associated general contractors of Washington, and the association of  
14 Washington businesses. Membership on the advisory committee is open to  
15 other interested environmental, business, professional, and citizen  
16 groups. The department must also invite and encourage representatives  
17 from federal agencies and tribes to participate. The storm water  
18 advisory committee must work with the department to:

19        (a) Improve coordination between state and local government  
20 agencies on storm water management, including the appropriate use of  
21 the new storm water management manuals and a streamlined permit process  
22 with consistent outcome goals.

23        (b) Develop recommendations for alternative watershed-based  
24 practices for flow control and water quality treatment utilizing  
25 watershed planning to assess the use of regional storm water facilities  
26 to augment or as an alternative to site-by-site storm water controls.

27        (c) Study and evaluate the feasibility of alternative water quality  
28 objectives for severely impaired waterbodies in highly urbanized areas.

29        (d) Study the appropriate use of off-site mitigation for storm  
30 water flow and water quality impacts. The use must address issues  
31 related to stream flow impacts on fish species.

32        (e) Study, evaluate, and make recommendations on the funding needs  
33 for local governments to meet the new federal storm water regulations.

34        (f) Assist in developing the cost-benefit analysis required in  
35 subsection (2) of this section.

36        (g) To the maximum extent possible, coordinate efforts with the  
37 transportation projects efficiency and accountability committee  
38 established by RCW 47.06C.030. The storm water advisory committee must  
39 also build upon the 2000 storm water advisory committee report to the

1 legislature, the independent science panel's review of the manuals in  
2 section 2 of this act, and the cost-benefit analysis required in  
3 subsection (2) of this section.

4 (h) Begin its work no later than July 1, 2002, and complete its  
5 work by December 31, 2003. The department must provide a progress  
6 report to the legislature on storm water management issues, and the  
7 approach to these issues taken by the storm water advisory committee,  
8 no later than December 31, 2002.

9 (2) The department must evaluate the costs and benefits of using  
10 the storm water management manuals. The evaluation must determine  
11 whether the probable benefits of the best management practices are  
12 greater than their probable costs, taking into account both the  
13 qualitative and quantitative benefits and costs of the policies  
14 implemented. The department must report its results for the storm  
15 water management manual for western Washington by December 31, 2002.  
16 The department must report its results for the storm water management  
17 manual for eastern Washington by March 1, 2003.

18 (3) While an integrated storm water management process is being  
19 developed, the department and other resource agencies are strongly  
20 encouraged to use flexibility in conditioning permits dealing with  
21 storm water management.

22 This section expires June 30, 2004.

23 NEW SECTION. **Sec. 4.** This act is necessary for the immediate  
24 preservation of the public peace, health, or safety, or support of the  
25 state government and its existing public institutions, and takes effect  
26 immediately.

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