

# HOUSE BILL REPORT

## ESHB 2088

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### As Amended by the Senate

**Title:** An act relating to storm water rates and charges.

**Brief Description:** Revising provisions relating to storm water rates and charges.

**Sponsors:** By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Schoesler, Chandler and Linville).

**Brief History:**

**Committee Activity:**

Agriculture & Natural Resources: 3/4/03, 3/5/03 [DPS].

**Floor Activity:**

Passed House: 3/13/03, 96-0.

Senate Amended.

Passed Senate: 4/10/03, 36-13.

### Brief Summary of Engrossed Substitute Bill

- Requires local governments operating storm water sewer facilities to reduce rates and charges by a minimum of 10 percent for any new or remodeled commercial building that utilizes the Washington State Building Code Council's permissive rainwater harvesting system guidelines for nonresidential occupancies.
- Prohibits counties from imposing storm water sewer system rates and charges on lands taxed as either forest land or as timber land according to state law.

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### HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Linville, Chair; Rockefeller, Vice Chair; Schoesler, Ranking Minority Member; Holmquist, Assistant Ranking Minority Member; Kristiansen, Assistant Ranking Minority Member; Chandler, Eickmeyer, Grant, Hunt, McDermott, Orcutt, Quall and Sump.

**Staff:** Caroleen Dineen (786-7156).

**Background:**

Storm water sewer facilities may be operated by a variety of local governments, including counties, cities, towns, and water-sewer districts. Generally, these entities' authority to operate these systems includes the power to construct, acquire, maintain and operate sites and facilities for storm water drainage. These local governments generally are given full authority to establish the rates and charges for the service and facilities.

According to state law, rates and charges must be uniform for the same class of customers or service and facility. However, state statutes specify a variety of factors that may be considered when developing these rates and charges, including:

- services furnished;
- benefits received;
- land's character, use, or water runoff characteristics;
- land user's nonprofit public benefit status;
- land user's income level; or
- other matters presenting a reasonable difference as a ground for distinction.

The Washington State Building Code Council (Council) adopted permissive rainwater harvesting system guidelines for nonresidential occupancies in July 2002.

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### **Summary of Engrossed Substitute Bill:**

Local governments operating storm water sewer facilities must reduce rates and charges for those facilities by a minimum of 10 percent for any new or remodeled commercial building that utilizes the permissive rainwater harvesting system guidelines for nonresidential occupancies adopted by the Council on July 12, 2002. Provisions are included in storm water sewer facilities statutes applicable to counties, cities, towns, water-sewer districts, and county flood control zone districts.

Counties are prohibited from imposing storm water sewer system rates and charges on lands taxed as either forest land or as timber land according to state law. Provisions specifying this prohibition are included in county storm water sewer system and forest land valuation and assessments statutes.

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### **EFFECT OF SENATE AMENDMENT(S):**

The Senate amendment revises provisions requiring a 10 percent reduction in storm water rates and charges for any new or remodeled commercial buildings utilizing the permissive rainwater harvesting guidelines adopted by the Council by: (1) focusing the reduction on the rainwater harvesting system rather than the Council's guidelines and deleting the reference to these guidelines; (2) applying the rate reduction to the storm water rate component on any combined sanitary sewer and storm water system; (3) requiring the

rainwater harvesting system to be properly sized to utilize the available roof surface of the commercial building; and (4) requiring the jurisdiction to consider rate reductions in excess of 10 percent depending on the amount of rainwater harvested.

**Appropriation:** None.

**Fiscal Note:** Requested on March 3, 2003.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** This bill includes an innovative way to give commercial developers incentives to get water needed to run buildings, reduce storm water runoff, and possibly promote infiltration. The State Building Code Council adopted the rainwater harvesting guidelines as a way to address storm water management and salmon habitat. The guidelines can significantly reduce water use and mitigate storm water impacts.

The bill clarifies that storm water fees cannot be applied to forest lands, which was the intent behind legislation enacted in 1992. Only one county applies these charges to forest lands. Forest land is part of the solution to storm water management problems. Forest lands have very few impervious surfaces, contribute to storm water absorption, and do not produce a lot of storm water runoff. Under the forests and fish legislation, forest land owners are required to deal with their own storm water.

(In support with concerns) Incentives should be supported but considered at the local level. A rate discount is an interesting approach; 10 percent may not be the right number. The rate limitation provisions may apply in some of these statutes to sanitary sewer and water rates. The bill should be amended to clarify these provisions apply only to storm water sewer rates.

**Testimony Against:** Local governments face significant responsibility under the federal Clean Water Act to manage storm water and must rely on fees to pay for this work. The fiscal growth factor limitation shifts costs to local government general funds, and many of those funds are already stretched. A cap on storm water fees is not appropriate.

The rain water harvesting incentive and forest lands exemption provisions should be matters of local control. Forest lands may have storm water impacts as a result of harvests. Some local governments already provide substantial discounts for storm water mitigation.

**Testified:** (In support) John Ehrenreich, Washington Forest Protection Association; Willy O'Neil, Associated General Contractors of Washington; Tim Pope, Northwest Water Source; and Grant Nelson, Association of Washington Business.

(In support with concerns) Dave Williams, Association of Washington Cities; and Paul Parker, Washington State Association of Counties.

(Opposed) Bruce Wishart, People for Puget Sound; and George Walk, Pierce County.