

2SHB 3181 - H AMD 1694

By Representatives Springer, Nelson

03/19/2010

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** This act may be known and cited as the
4 clean water act of 2010.

5 NEW SECTION. **Sec. 2.** (1) The legislature finds that nonpoint
6 water pollution and contaminated storm water runoff creates a
7 significant ecological burden on the rivers, aquifers, lakes, streams,
8 and marine receiving waters across Washington and imposes a significant
9 economic burden on many of the state's businesses and residents.

10 (2) The legislature recognizes that the burden of nonpoint and
11 storm water pollution is caused by both increased volumes of water
12 runoff due to the expansion of impervious surfaces and the toxic
13 substances that pollute the runoff. The burden of storm water and
14 nonpoint pollution from hazardous substances is difficult to offset
15 because the source of pollution is not a single physical point, but
16 occurs wherever the toxic substances are manufactured, used, or
17 consumed.

18 (3) The legislature finds that the federal government and the state
19 of Washington have identified control of pollutants in storm water
20 runoff through national pollutant discharge elimination system phase I
21 and II municipal storm water permits as a requirement for the state and
22 local jurisdictions. Impacts from the polluted storm water may be
23 prevented or controlled through retrofit projects for existing
24 infrastructure as well as other means.

25 (4) The legislature finds that resources available to offset the
26 direct burdens of storm water pollution by hazardous substances are
27 insufficient to meet existing needs. Existing funding is raised
28 largely by local governments and is disproportionately borne by fees
29 levied on individuals and property owners.

1 (5) Finally, the legislature finds that increasing the tax on
2 hazardous substances is necessary to fund programs that will offset the
3 burdens that pollution places on the environment and the waters of the
4 state.

5 **Sec. 3.** RCW 82.21.030 and 1989 c 2 s 10 are each amended to read
6 as follows:

7 (1)(a) A tax is imposed on the privilege of possession of hazardous
8 substances in this state. The rate of the tax (~~((shall be))~~) is seven-
9 tenths of one percent multiplied by the wholesale value of the
10 substance.

11 (b) Beginning May 1, 2010, an additional tax is imposed on the
12 privilege of possession of hazardous substances in this state. The
13 rate of the tax is 0.85 percent multiplied by the wholesale value of
14 the substance. A credit is allowed, in accordance with rules adopted
15 by the department, for taxes paid under this subsection (1)(b) with
16 respect to any possession of petroleum products when the petroleum
17 products are exported for use or sale outside this state.

18 (2)(a) Moneys collected under (~~(this chapter shall)~~) subsection
19 (1)(a) of this section must be deposited in the toxics control accounts
20 under RCW 70.105D.070 and expended in accordance with the purposes
21 stated therein.

22 (b) Moneys collected under subsection (1)(b) of this section must
23 be deposited into the clean water legacy fund hereby created in the
24 state treasury.

25 (3) Chapter 82.32 RCW applies to the tax imposed in this chapter.
26 The tax due dates, reporting periods, and return requirements
27 applicable to chapter 82.04 RCW apply equally to the tax imposed in
28 this chapter.

29 NEW SECTION. **Sec. 4.** A new section is added to chapter 76.09 RCW
30 to read as follows:

31 Consistent with RCW 76.09.405, the department must administer any
32 money deposited in the forest and fish support account from the clean
33 water legacy fund to fund activities pursuant to the state's
34 implementation of the forests and fish report as defined in this
35 chapter and related activities including but not limited to adaptive
36 management or monitoring.

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 90.48 RCW
2 to read as follows:

3 (1) The storm water account is created in the state treasury. Any
4 moneys in the account are allocated to the department of ecology and
5 may be spent only after appropriation. Expenditures from the account
6 must be used on activities or projects that mitigate or prevent storm
7 water pollution as provided in this section.

8 (2)(a) After deducting the department's administrative costs of no
9 more than four percent of the appropriations included in the omnibus
10 operating and capital appropriations acts associated with administering
11 a competitive grant process, moneys must be distributed annually as
12 provided in (b) of this subsection.

13 (b)(i) By January 1, 2011, and by January 1st of each year
14 thereafter, seventy-five thousand dollars must be provided to each
15 jurisdiction that is subject to the national pollutant discharge
16 elimination system phase I or phase II requirements.

17 (ii)(A) Until July 1, 2011, all of the remaining moneys must be
18 allocated through the grant process to local governments covered by
19 national pollutant discharge elimination system municipal phase I or
20 phase II permits to fund local government projects or activities that
21 mitigate or prevent contamination of storm water or the recontamination
22 of receiving waters previously remediated under federal or state-
23 approved activities. To be eligible, local governments must provide
24 fifty percent of project or activity costs from other nonstate fund
25 sources.

26 (B) Beginning July 1, 2011, fifty percent of the remaining moneys
27 must be allocated through the grant process described in (b)(ii)(A) of
28 this subsection.

29 (iii) Beginning July 1, 2011, forty percent of the remaining moneys
30 must be allocated through the grant process to local governments for
31 retrofit projects that address contamination of storm water, or
32 projects that directly reduce toxic diesel emissions that result in air
33 deposition of storm water pollutants. The moneys for retrofit projects
34 must be prioritized for projects that utilize low-impact development
35 retrofit strategies, but moneys may be awarded for other retrofit
36 projects if the site does not lend itself to low-impact development
37 techniques or other retrofit techniques that are shown to be more

1 effective in terms of addressing water quality problems associated with
2 the site.

3 (iv) Beginning July 1, 2011, ten percent of the remaining moneys
4 must be allocated through either existing storm water grant programs or
5 the grant process to projects under (b)(i) or (ii) of this subsection
6 and to the highest priority projects based upon ecological and water
7 quality benefits determined by the department. For projects qualifying
8 under this subsection, moneys may be allocated to meet the matching
9 requirements under (b)(i) of this subsection to jurisdictions that
10 demonstrate economic hardship in meeting the matching requirement.

11 (3) In consultation with stakeholders, the department must develop
12 criteria for administering the program and ranking projects for funding
13 based on water quality benefits. In developing criteria applicable to
14 projects in the Puget Sound basin, the department must consult with the
15 Puget Sound partnership. Consistent with RCW 90.71.340, when making
16 grants under this section that contribute to Puget Sound protection and
17 recovery, the department must consult with the Puget Sound partnership
18 to ensure that grants are for projects and activities that are
19 consistent with the prioritization of the 2020 action agenda. All
20 activities or capital projects approved for funding must demonstrate
21 the potential to achieve clear ecological or water quality benefits.
22 The department must endeavor to distribute the moneys within each
23 geographic region of the state in proportion to the severity of impacts
24 to waterways from storm water pollution.

25 (4) The department must initiate the grant application process by
26 July 1, 2010.

27 (5) The ecosystem coordination board of the Puget Sound partnership
28 must conduct a regular review of environmental outcomes derived from
29 projects in the Puget Sound basin that have been funded under this
30 section and must recommend, as necessary, actions to improve
31 environmental benefits of the program in the Puget Sound basin.

32 (6) By December 1, 2013, and every two years thereafter, the
33 department must report to the governor and the appropriate committees
34 of the legislature on the progress of the program and the suitability
35 of the percentage allocations specified in subsection (2)(b) of this
36 section.

37 (7) The definitions in this section apply throughout this section
38 unless the context clearly requires otherwise.

1 (a) "Department" means the department of ecology.

2 (b) "Low-impact development" means a storm water management and
3 land use strategy applied, where feasible, at the parcel and
4 subdivision, or drainage area, level that emphasizes conservation and
5 use of on-site natural features integrated with engineered, small-scale
6 hydrologic controls to more closely mimic predevelopment hydrologic
7 functions.

8 (c) "Retrofit" means the renovation of existing development to
9 improve or eliminate storm water problems associated with the site or
10 drainage area.

11 NEW SECTION. **Sec. 6.** A new section is added to chapter 90.48 RCW
12 to read as follows:

13 (1) The water quality action account is created in the state
14 treasury. Any moneys in the water quality action account are allocated
15 to the department of ecology and may be spent only after appropriation.
16 The account may not be used to fund specific state activities that are
17 required to be funded through fees paid by state and federal water
18 quality permittees.

19 (2) Moneys in the water quality action account may be used only for
20 state responsibilities to carry out the purposes of this chapter to:
21 Prevent pollution of streams, rivers, aquifers, marine receiving
22 waters, and drinking water; prevent beach and shellfish bed closures
23 due to polluted surface runoff; and protect fish and wildlife habitat
24 from polluted surface runoff. More specifically, moneys may be used
25 for, but not limited to, the following purposes:

26 (a) Creation and maintenance of a storm water technology center to
27 assist businesses and governmental entities by developing resources for
28 testing, monitoring, adopting, and implementing new clean water
29 practices and technologies;

30 (b) Improved storm water research, data management, and monitoring;

31 (c) Development of clean water guidance and best management
32 practices for nonpermitted surface runoff activities; and

33 (d) Improved source control actions, such as collaboration with
34 local governments to provide local source control inspectors.

35 NEW SECTION. **Sec. 7.** A new section is added to chapter 90.71 RCW
36 to read as follows:

1 Consistent with RCW 90.71.340, the Puget Sound partnership must use
2 any money deposited in the Puget Sound recovery account from the clean
3 water legacy fund to fund activities or capital projects that are
4 consistent with the prioritization of the 2020 action agenda.

5 NEW SECTION. **Sec. 8.** A new section is added to chapter 90.48 RCW
6 to read as follows:

7 (1) The multidisciplinary college of the environment at the
8 University of Washington must develop by November 1, 2010, a plan to
9 establish and maintain within the resources appropriated in the omnibus
10 operating and capital appropriation acts the research monitoring and
11 assessment capabilities needed to assure that funded projects are
12 delivering systemic ecological and economic benefits.

13 (2) By November 1, 2010, the department, in coordination with the
14 Puget Sound partnership must convene a broad stakeholder engagement
15 process that includes local government, environmental organizations,
16 research organizations, and businesses. Building on the planning of
17 the Puget Sound partnership and the research and assessment plan
18 developed by the University of Washington college of the environment,
19 the goal of this process is to develop recommendations for a continued,
20 comprehensive and broad-based approach to funding storm water
21 management and cleanup, including identification of all local, state,
22 and federal resources that are available for this purpose which may be
23 considered by the legislature.

24 NEW SECTION. **Sec. 9.** A new section is added to chapter 82.21 RCW
25 to read as follows:

26 (1) Subject to the conditions and limitations in this section, a
27 motor carrier may request a refund of the tax imposed under RCW
28 82.21.030(1)(b) with respect to motor vehicle fuel and special fuel
29 purchased by the motor carrier for use in the fuel tanks of the motor
30 carrier's commercial motor vehicles. A motor carrier is entitled to a
31 refund under this section regardless of whether the tax has been paid
32 by the motor carrier directly to the department on the possession of
33 motor vehicle fuel or special fuel in this state or indirectly through
34 the purchase of motor vehicle fuel or special fuel that is subject to
35 the tax imposed in this chapter.

1 (2)(a) For motor vehicle fuel or special fuel for which the motor
2 carrier indirectly paid the tax imposed under RCW 82.21.030(1)(b), the
3 amount of the refund is determined by dividing the average annual
4 wholesale price of the motor vehicle fuel or special fuel, as the case
5 may be, by the average annual retail price of motor vehicle fuel or
6 special fuel, as the case may be, then multiplying the quotient by the
7 tax rate in RCW 82.21.030(1)(b) expressed as a decimal, then
8 multiplying the product by the actual price paid by the motor carrier
9 for the motor vehicle fuel and special fuel. For the purpose of this
10 subsection, the average wholesale and retail prices of motor vehicle
11 fuel and special fuel are based on average wholesale and retail prices
12 for gasoline, in the case of motor vehicle fuel, and diesel fuel, in
13 the case of special fuel, determined for this state by the United
14 States energy information administration of the United States
15 department of energy for the most recent twelve consecutive month
16 period published as of January 1st of the year during which application
17 for refund under this section is made. The department of revenue must
18 use the same consecutive twelve-month period to determine the average
19 wholesale and retail prices of motor vehicle fuel and special fuel.

20 (b) Where the motor carrier has paid the tax imposed in RCW
21 82.21.030(1)(b) on the possession of motor vehicle fuel and special
22 fuel in this state, the amount of the refund is the amount of such tax
23 actually paid.

24 (3)(a) Beginning January 1, 2011, a motor carrier may request a
25 refund from the department during any calendar year for the tax imposed
26 under this chapter on motor vehicle fuel and special fuel purchased by
27 the motor carrier during the immediately preceding calendar year only.
28 Refunds requested during calendar year 2011 are limited to the tax
29 imposed in RCW 82.21.030(1)(b) and paid directly or indirectly on motor
30 vehicle fuel or special fuel purchased on or after the effective date
31 of this section. The department must rule on requests within sixty
32 days of receipt.

33 (b) The refund request, including documentation and information
34 required by the department, must be made using an electronic
35 application process as prescribed by the department. Only one
36 remittance request may be made by a motor carrier in a calendar year.

37 (c) An application for refund of the tax imposed under RCW

1 82.21.030(1)(b) must be made by December 31st for taxes imposed in RCW
2 82.21.030(1)(b) on motor vehicle fuel and special fuel purchased by the
3 motor carrier in the preceding calendar year.

4 (d) The total amount of a refund request must be at least twenty-
5 five dollars. The department must deny any request for a refund that
6 is less than twenty-five dollars.

7 (e) A motor carrier who requests a refund under this section must,
8 when requested, grant the department of revenue access to the records
9 of the motor carrier necessary to verify entitlement to and the proper
10 amount of a refund under this section.

11 (4) Amounts refunded under this section must be disbursed from the
12 clean water legacy account created in the state treasury in RCW
13 82.21.010. The following definitions apply throughout this section
14 unless the context clearly requires otherwise.

15 (a) "Commercial motor vehicle" means a motor vehicle or combination
16 of motor vehicles used in commerce exclusively to transport property
17 for hire if the motor vehicle:

18 (i) Has a gross vehicle weight rating of twenty-six thousand one
19 pounds or more (eleven thousand seven hundred ninety-four kilograms or
20 more) inclusive of a towed unit with a gross vehicle weight rating of
21 ten thousand pounds or more (four thousand five hundred thirty-six
22 kilograms or more); or

23 (ii) Has a gross vehicle weight rating of twenty-six thousand one
24 pounds or more (eleven thousand seven hundred ninety-four kilograms or
25 more).

26 (b) "Motor carrier" means any person who engages in the business of
27 transporting property for hire.

28 (c) "Motor vehicle fuel" has the same meaning as provided in RCW
29 82.36.010.

30 (d) "Special fuel" has the same meaning as provided in RCW
31 82.38.020.

32 NEW SECTION. **Sec. 10.** If any provision of this act or its
33 application to any person or circumstance is held invalid, the
34 remainder of the act or the application of the provision to other
35 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 11.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and takes effect
4 May 1, 2010."

5 Correct the title.

EFFECT: Replaces the annual 0.1 percent tax increase with a 0.85
percent tax increase. Changes the export exemption to a credit.
Deposits the entire tax increase into a clean water legacy fund. Adds
back the water quality action account. Removes section that requires
money placed in motor vehicle account from the clean water legacy fund
to be used for storm water related activities.

Requires the ecosystem coordination board to conduct a regular
review of outcomes of projects funded through the storm water account.

Requires any money deposited in the forest and fish support account
from the clean water legacy fund to be used for the state's
implementation of the forests and fish report and related activities.

Allows motor carriers to seek a refund for the additional hazardous
substance tax paid on motor vehicle fuel and special fuel.

Requires the multidisciplinary college of the environment at the
University of Washington to develop by November 1, 2010, a plan to
establish and maintain within the resources appropriated in the omnibus
operating and capital appropriation acts the research monitoring and
assessment capabilities needed to assure that funded projects are
delivering systemic ecological and economic benefits.

Requires DOE, in coordination with the Puget Sound partnership, to
convene a broad stakeholder engagement process to develop
recommendations for a continued, comprehensive and broad-based approach
to funding storm water management and cleanup.

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