

SENATE BILL REPORT

SB 6851

As of February 22, 2010

Title: An act relating to the clean water act of 2010 funding cleanup of water pollution and other programs necessary for the health and well-being of Washington citizens through an increase in the tax on hazardous substances.

Brief Description: Concerning the clean water act of 2010 funding cleanup of water pollution and other programs necessary for the health and well-being of Washington citizens through an increase in the tax on hazardous substances.

Sponsors: Senators Murray, Brown, Tom, Pridemore, Rockefeller, Kline, Oemig, Kauffman, McDermott, Gordon, Jacobsen, Keiser, Franklin, Fairley, McAuliffe, Eide, Fraser, Berkey, Shin, Kastama, Hargrove, Kohl-Welles, Regala and Prentice.

Brief History:

Committee Activity: Ways & Means: 2/22/10.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Dianne Criswell (786-7433)

Background: Model Toxics Control Account. Initiative Measure No. 97, approved by a citizen vote in 1988, created the Model Toxics Control Act, which funds hazardous waste cleanup through a tax on hazardous substances. The tax is imposed on the first in-state possessor of hazardous substances at the rate of 0.7 percent on the wholesale value of the product. The tax is reported on the excise tax return and collected by the Department of Revenue. There are exemptions from the tax for personal use of these products, minimal uses, subsequent possessors on products for which the tax has already been paid, and persons exempt under the U.S. Constitution. There are credits against the tax for fuels consumed outside Washington State, as well as credits against similar taxes paid on these products in other states. The Department of Ecology's (DOE) Toxic Cleanup Program administers the investigation and clean-up programs.

Federal Clean Water Act. The federal Clean Water Act (CWA) sets a national goal to restore and maintain the chemical, physical, and biological integrity of the nation's waters and to eliminate pollutant discharges into navigable waters. The CWA defines pollutant broadly to include a variety of materials that may be discharged into water through human activities, construction, industrial processes, or other methods. Among other requirements, the CWA

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sets effluent limitations for discharges of pollutants to navigable waters and requires states to adopt surface water quality standards to protect humans, fish, and other aquatic life.

State Water Pollution Control. The CWA authorizes the U.S. Environmental Protection Agency (EPA) to delegate regulatory water pollution authority to designated state agencies. The EPA has delegated this authority to the DOE.

The DOE administers three water quality grant programs:

1. The Water Pollution Control Revolving Fund provides loans for water pollution control facilities and related activities that contribute to achievement of state and federal water pollution control requirements. Funding is provided from the federal Environmental Protection Agency for this program.
2. The Centennial Clean Water Program provides grants and loans for hardship water pollution control facility construction projects and nonpoint source pollution activity projects.
3. The CWA Section 319 Nonpoint Source Program provides grants for nonpoint pollution control activity projects that meet state and federal criteria.

Puget Sound Partnership Action Agenda. The Puget Sound Partnership's Puget Sound Action Agenda (Action Agenda), which outlines the immediate and long-term actions necessary to restore and protect Puget Sound, was released in 2008. State law includes legislative intent to align state funding with the Action Agenda's policies.

Motor Vehicle Account. Funds in the Motor Vehicle Account are used by state agencies, for the use of counties, cities, and towns' roads, streets and highway purposes, including facilities for pedestrians, equestrians, or bicyclists.

Puget Sound Recovery Account. Funds in the Puget Sound Recovery Account are used for the protection and recovery of Puget Sound.

Oil Spill Prevention Account. Funds in the Oil Spill Prevention Account are used to fund oil spill prevention and preparedness programs.

Summary of Bill: Increase in Hazardous Substance Tax. Beginning June 1, 2010, the Hazardous Substance Tax rate is increased from 0.7 percent to 2.0 percent. The additional taxes are deposited into a new Storm Water Account, a new State Clean Water Account, the Oil Spill Prevention Account, the Puget Sound Recovery Account, and the Motor Vehicle Account. A portion of the taxes are also deposited into the State General Fund.

Between July 1, 2010, and July 1, 2011, the additional Hazardous Substance Tax revenues are allocated as follows:

1. 20 percent is deposited in the new Storm Water Account;
2. 1.9 percent is deposited in the Oil Spill Prevention Account;
3. 2.05 percent is deposited in the Puget Sound Recovery Account;
4. 2.05 percent is deposited in the new State Clean Water Account;
5. 5 percent is deposited into the Motor Vehicle Account; and
6. 69 percent is deposited in the State General Fund.

Between July 1, 2011, and July 1, 2013, the additional Hazardous Substance Tax revenues are allocated as follows:

1. 45 percent is deposited in the new Storm Water Account;
2. 1.2 percent is deposited in the Oil Spill Prevention Account;
3. 2.4 percent is deposited in the Puget Sound Recovery Account;
4. 2.4 percent is deposited in the new State Clean Water Account;
5. 5 percent is deposited into the Motor Vehicle Account; and
6. 44 percent is deposited in the State General Fund.

Between July 1, 2013, and July 1, 2015, the additional Hazardous Substance Tax revenues are allocated as follows:

1. 45 percent is deposited in the new Storm Water Account;
2. 1.1 percent is deposited in the Oil Spill Prevention Account;
3. 4.5 percent is deposited in the Puget Sound Recovery Account;
4. 4.4 percent is deposited in the new State Clean Water Account;
5. 10 percent is deposited into the Motor Vehicle Account; and
6. 35 percent is deposited in the State General Fund.

After June 30, 2015, the additional Hazardous Substance Tax revenues are allocated as follows:

1. 70 percent is deposited in the new Storm Water Account;
2. 1 percent is deposited in the Oil Spill Prevention Account;
3. 9.5 percent is deposited in the Puget Sound Recovery Account;
4. 9.5 percent is deposited in the new State Clean Water Account; and
5. 10 percent is deposited into the Motor Vehicle Account.

Hazardous Substance Tax Revenue Deposited in Storm Water Account. A new Storm Water Account is created in the State Treasury. The DOE is responsible for distributing funds in the account to local governments as grants. Grant monies must be used by local governments in three primary ways:

1. to fund local government projects or activities that mitigate or prevent contamination of storm water. Monies allocated for this purpose must be matched by local funds. Generally, 50 percent of the money in the Storm Water Account must be used for these purposes;
2. to fund retrofit programs that address contamination of storm water or projects that mitigate the air deposition of storm water. Generally, 40 percent of the funds in the Storm Water Account must be used for these purposes; and
3. to fund existing storm water grant programs. Generally, 10 percent of the funds in the Storm Water Account must be used for these purposes.

The DOE must consult with stakeholders in developing criteria for administering the grant programs and ranking projects on their water quality benefits. With respect to projects in the Puget Sound basin, the DOE must consult with the Puget Sound Partnership to ensure that grants are for projects and activities that are consistent with the prioritization of the 2020 Action Agenda. The grant application process must be initiated by July 1, 2010.

By December 1, 2013, and every two years thereafter, the DOE must report to the Governor and the appropriate legislative committees on the progress of the grant programs provided through the Storm Water Account and the suitability of the percentage allocations.

Hazardous Substance Tax Revenue Deposited in Motor Vehicle Account. Additional Hazardous Substance Tax revenues deposited in the Motor Vehicle Account must be used to fund activities or projects that address contamination of storm water through transportation infrastructure. Revenues may not be used for construction of storm water facilities associated with new road construction.

Hazardous Substance Tax Revenue Deposited in Puget Sound Recovery Account. Additional Hazardous Substance Tax Revenues deposited in the Puget Sound Recovery Account must be used to fund activities or projects that are consistent with the prioritization of the 2020 Action Agenda.

Hazardous Substance Tax Revenue Deposited in State Clean Water Account. The State Clean Water Account is created in the State Treasury. The additional Hazardous Substance Tax Revenues deposited in the State Clean Water Account must be used to fund state responsibilities to prevent oil spills, to create a Storm Water Technology Center to assist businesses and government by developing resources for new clean water practices and technologies, to improve water research and monitoring, to develop clean water guidance and best practices for surface runoff, and to improve source control actions.

Hazardous Substance Tax Revenue Deposited in the Oil Spill Prevention Account. Additional Hazardous Substance Tax revenues deposited in the Oil Spill Prevention Account are to be used for previously authorized purposes related to oil spill prevention and preparedness programs.

Appropriation: None.

Fiscal Note: Available.

[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect on June 1, 2010.