

# SENATE BILL REPORT

## SB 6851

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As Reported by Senate Committee On:  
Ways & Means, March 9, 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, 3/09/10 [DPS, DNP].

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Substitute Senate Bill No. 6851 be substituted therefor, and the substitute bill do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Keiser, Kline, Kohl-Welles, McDermott, Murray, Oemig, Pridemore, Regala and Rockefeller.

**Minority Report:** Do not pass.

Signed by Senators Carrell, Hewitt, Parlette, Pflug and Schoesler.

**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

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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 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 (Recommended Substitute):** Beginning July 1, 2010, the Hazardous Substance Tax rate is increased by 0.5 percent (combined tax rate is 1.2 percent).

The additional taxes are deposited as follows:

- 85 percent into a new Storm Water Account; and

- 15 percent into the Motor Vehicle Account.

A new Storm Water Account is created in the state treasury. DOE is responsible for distributing funds in the account to local governments as grants.

Revenues deposited into 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.

The bill takes effect on July 1, 2010.

**EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Substitute):** The underlying bill was stricken and replaced with the following:

Beginning July 1, 2010, the Hazardous Substance Tax rate is increased by 0.5 percent (combined tax rate is 1.2 percent).

The additional taxes are deposited as follows:

- 85 percent into a new Storm Water Account; and
- 15 percent into the Motor Vehicle Account.

A new Storm Water Account is created in the state treasury. DOE is responsible for distributing funds in the account to local governments as grants.

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The bill takes effect on July 1, 2010.

**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.

**Staff Summary of Public Testimony on Original Bill:** PRO: During the 2009-11 fiscal biennium, the state needs to consider options to increase general fund revenues. In the past, general fund money has been used to pay for environmental programs and cleanup. Stormwater is the number one pollution problem, in cities and in rural communities.

Washington needs a practical and legal solution, because the federal government is requiring local governments to do this. There are significant long-term costs; the hazardous substance tax is a fair place to look for additional resources. The Puget Sound Partnership was created to assist Puget Sound cleanup by 2020. The science is clear that the number one threat to the Puget Sound is stormwater. Current law does not authorize hazardous substance tax revenues to be used for stormwater cleanup. There is broad support for this proposal; this is also a broad-based tax. This will create jobs. Now, the stormwater cleanup is funded by utility ratepayers and property taxpayers. Cities are struggling to fulfill these mandates. This proposal would create good work and is sound public policy. Local governments are seeing recontamination. Cities are not asking for a free lunch; rather, they are asking for help. This provides local flexibility. There is no less value in this proposal than other general fund options.

CON: This tax has been a robust revenue source; it should not be increased. Some refineries are not vertically integrated. Also, this economy has been difficult for refiners. This proposal is a threat to sustainable businesses and communities. Refineries are vital to the communities in which they are located; they offer family wage jobs and support others in the community. There could be an impact on the price of gas at the tank. Some refineries may not be able to pass the price of this tax increase on to consumers; this will affect the bottom line. This is an unfair tax increase on a single industry. This could increase costs and lead to facility closure. This disguises a levy of tax to fund the general fund. Even clean fuels are subject to this tax. This tax increase could create issues in border communities. The tax increase will be a significant cost burden on air carriers. Agricultural producers must compete in a global market and cannot pass on tax increases.

**Persons Testifying:** PRO: Julie Murray, Office of Financial Management; Ted Sturdevant, Department of Ecology; Martha Konsgaard, Puget Sound Partnership; Clifford Traisman, Washington Environmental Council, Washington Conservation Voters; Paul Roberts, city of Everett; Randy Scott, Washington State Association of Plumbers and Pipefitters; Dave Williams, Association of Washington Cities; Jake Fey, city of Tacoma; Dave Johnson, Washington State Building and Construction Trades Council; Nick Federici, United Way; Elizabeth Davis, League of Women Voters; Lonnie Johns-Brown; Bridget Moran, Washington Department of Natural Resources; Mo McBroom, Washington Environmental Council; Eric Koszyk, Sierra Club; Josch Weiss, Association of Counties; Cheryl Crist, Thurston County Democrats.

CON: Don Sorenson, Steve Garey, Tesoro; Joe Solomon, United Steel Workers Local 12-591; Dean Maxwell, Mayor of Anacortes; Butch Cleve; Sue Krienen, Shell; Greg Hanon, Western States Petroleum Association; Mitch Everton, Anacortes Chamber of Commerce; Nancy Webster, BP Cherry Point; Dan Coyne, Alaska Airlines; Mel Sorenson, Northwest Propane Gas Association; Ben Buckholz, Far West Agribusiness Association; Heather Hansen, Washington Friends of Farms and Forests; Tim Hamilton, Auto; Grant Nelson, Association of Washington Business; Charlie Brown, Washington Oil Marketers Association; Jim Woodward, Steelworker; Brandon Horskeeper, Washington Policy Center; Keith Rubin, Al Williams, citizen.