
SENATE BILL 6851

State of Washington

61st Legislature

2010 Regular Session

By 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

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1 AN ACT Relating to the clean water act of 2010 funding cleanup of
2 water pollution and other programs necessary for the health and well-
3 being of Washington citizens through an increase in the tax on
4 hazardous substances; amending RCW 82.21.030; adding new sections to
5 chapter 90.48 RCW; adding a new section to chapter 46.68 RCW; adding a
6 new section to chapter 90.71 RCW; creating new sections; providing an
7 effective date; and declaring an emergency.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9 NEW SECTION. **Sec. 1.** This act may be known and cited as the clean
10 water act of 2010.

11 NEW SECTION. **Sec. 2.** (1) The legislature finds that nonpoint
12 water pollution and contaminated storm water runoff is a major problem
13 in the state creating a significant burden on the rivers, aquifers,
14 lakes, and streams across Washington.

15 (2) The legislature recognizes that the burden of nonpoint and
16 storm water pollution is a function of both increased volumes of water
17 runoff due to the expansion of impervious surfaces and the toxic
18 substances that pollute the runoff. The burden of storm water and

1 nonpoint pollution from hazardous substances is difficult to offset
2 because the source of pollution is not a single physical point, but
3 occurs wherever the toxic substances are manufactured, used, or
4 consumed.

5 (3) The legislature finds that the federal government and the state
6 of Washington have identified remediation of storm water runoff through
7 national pollutant discharge elimination system phase I and II as a
8 requirement for the state and local jurisdictions. Impacts from the
9 polluted storm water may be mitigated through retrofit projects for
10 existing infrastructure.

11 (4) The legislature finds that resources needed to offset the
12 direct burdens of storm water pollution by hazardous substances are
13 insufficient to meet existing needs. Existing funding is raised
14 largely by local governments and is disproportionately borne by fees
15 levied on individuals and property owners.

16 (5) Finally, the legislature finds that increasing the tax on
17 hazardous substances is necessary to fund programs that will offset the
18 burdens that pollution places on the environment and the waters of the
19 state.

20 (6) It is the intent of the legislature that any increased revenues
21 deposited into the general fund from the effective date of this act
22 until June 30, 2015, resulting from the additional tax imposed in RCW
23 82.21.030 be appropriated for the purpose of providing funding for
24 programs which promote the health of Washington's environment and its
25 citizens.

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

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

31 (b) Beginning July 1, 2010, an additional tax is imposed on the
32 privilege of possession of hazardous substances in this state. The
33 rate of the tax is equal to one and three-tenths percent multiplied by
34 the wholesale value of the substance.

35 (2)(a) Moneys collected under (~~this chapter shall~~) subsection
36 (1)(a) of this section must be deposited in the toxics control accounts
37 under RCW 70.105D.070.

1 (b) Moneys collected under subsection (1)(b) of this section must
2 be deposited as follows:

3 (i) For taxes collected through June 30, 2011, twenty percent must
4 be deposited in the storm water account created in section 4 of this
5 act to be used solely for the purposes of funding the items set forth
6 in section 4(2)(a) of this act, one and nine-tenths percent must be
7 deposited in the state oil spill prevention account, two and one-
8 twentieth percent must be deposited into the Puget Sound recovery
9 account to be used as required under section 6 of this act, two and
10 one-twentieth percent must be deposited into the state clean water
11 account to be used as required under section 7 of this act, five
12 percent must be deposited into the motor vehicle account to be used as
13 required under section 5 of this act, and the remainder must be
14 deposited into the general fund.

15 (ii) For taxes collected between July 1, 2011, and June 30, 2013,
16 forty-five percent must be deposited into the storm water account
17 created in section 4 of this act, one and one-fifth percent must be
18 deposited in the state oil spill prevention account, two and two-fifths
19 percent must be deposited into the Puget Sound recovery account to be
20 used as required under section 6 of this act, two and two-fifths
21 percent must be deposited in the state clean water account to be used
22 as required under section 6 of this act, five percent must be deposited
23 into the motor vehicle account to be used as required under section 5
24 of this act, and the remainder must be deposited into the general fund.

25 (iii) For taxes collected between July 1, 2013, and June 30, 2015,
26 forty-five percent must be deposited into the storm water account
27 created in section 4 of this act, one and one-tenths percent must be
28 deposited in the state oil spill prevention account, four and one-half
29 percent must be deposited into the Puget Sound recovery account to be
30 used as required under section 6 of this act, four and two-fifths
31 percent must be deposited in the state clean water account to be used
32 as required under section 7 of this act, ten percent must be deposited
33 into the motor vehicle account to be used as required under section 5
34 of this act, and the remainder must be deposited into the general fund.

35 (iv) For taxes collected on or after July 1, 2015, one percent must
36 be deposited in the state oil spill prevention account, nine and one-
37 half percent must be deposited into the Puget Sound recovery account to
38 be used as required under section 6 of this act, nine and one-half

1 percent must be deposited in the state clean water account to be used
2 as required under section 7 of this act, ten percent must be deposited
3 into the motor vehicle account to be used as required under section 5
4 of this act, and the remainder must be deposited into the storm water
5 account created in section 4 of this act.

6 (3) Chapter 82.32 RCW applies to the tax imposed in this chapter.
7 The tax due dates, reporting periods, and return requirements
8 applicable to chapter 82.04 RCW apply equally to the tax imposed in
9 this chapter.

10 NEW SECTION. Sec. 4. A new section is added to chapter 90.48 RCW
11 to read as follows:

12 (1) The storm water account is created in the state treasury.
13 Receipts from the tax imposed under RCW 82.21.030(1)(b) must be
14 deposited in the account as set forth in RCW 82.21.030. Moneys in the
15 account are allocated to the department and may be spent only after
16 appropriation. Expenditures from the account must be used on
17 activities or projects that mitigate or prevent storm water pollution.

18 (2) After deducting the department's administrative costs of no
19 more than four percent associated with administering a competitive
20 grant process, moneys must be distributed based on the following
21 allocation:

22 (a) Fifty percent of the remaining moneys must be allocated through
23 the grant process to phase I or phase II jurisdictions to fund local
24 government projects or activities that mitigate or prevent
25 contamination of storm water. To be eligible, local governments must
26 provide fifty percent of project or activity costs from other nonstate
27 fund sources. Of the allocation in this subsection, seventy-five
28 thousand dollars must be provided to each jurisdiction that is subject
29 to the national pollutant discharge elimination system phase I or phase
30 II requirements.

31 (b) Forty percent of the remaining moneys must be allocated through
32 the grant process to local governments for retrofit projects that
33 address contamination of storm water, or projects that mitigate the air
34 deposition of storm water pollutants. The moneys for retrofit projects
35 must be prioritized for projects that utilize low-impact development
36 retrofit strategies, but moneys may be awarded for other retrofit
37 projects if the site does not lend itself to low-impact development

1 techniques or other retrofit techniques that are shown to be more
2 effective in terms of addressing water quality problems associated with
3 the site.

4 (c) Ten percent of the remaining moneys must be allocated through
5 either existing storm water grant programs or the grant process to
6 projects under (a) or (b) of this subsection and to the highest
7 priority projects based upon ecological and water quality benefits
8 determined by the department. For projects qualifying under this
9 subsection (2)(c), moneys may be allocated to meet the matching
10 requirements under (a) of this subsection to jurisdictions that
11 demonstrate economic hardship in meeting the matching requirement.

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

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

28 (5) By December 1, 2013, and every two years thereafter, the
29 department must report to the governor and the appropriate committees
30 of the legislature on the progress of the program and the suitability
31 of the percentage allocations specified in subsection (2)(a) through
32 (c) of this section.

33 (6) The definitions in this section apply throughout this section
34 unless the context clearly requires otherwise.

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

36 (b) "Low-impact development" means a storm water management and
37 land development strategy applied at the parcel and subdivision level

1 that emphasizes conservation and use of on-site natural features
2 integrated with engineered, small-scale hydrologic controls to more
3 closely mimic predevelopment hydrologic functions.

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

7 NEW SECTION. **Sec. 5.** A new section is added to chapter 46.68 RCW
8 to read as follows:

9 (1) The department of transportation must use taxes deposited in
10 the motor vehicle account under RCW 82.21.030(1)(b) to fund activities
11 or projects that address contamination of storm water related to
12 transportation infrastructure through the implementation of the
13 department of transportation's national pollutant discharge elimination
14 system programs permitted under chapter 90.48 RCW. Activities and
15 projects that may be supported with these funds include, but are not
16 limited to: Construction, operation, inspection, monitoring, and
17 maintenance of storm water facilities; purchase, operation, and
18 maintenance of vector trucks and vector decant facilities; purchase,
19 maintenance, and operation of storm water management inventory,
20 mapping, and information systems; storm water pollution prevention plan
21 development and implementation; and storm water training. For the
22 purposes of this section, "storm water facilities" includes, but is not
23 limited to, ponds, biofiltration swales, storm water treatment tanks,
24 detention vaults, oil water separators, dry wells, catch basins, and
25 filters.

26 (2) The taxes deposited in the motor vehicle account under RCW
27 82.21.030(1)(b) may not be used for construction of storm water
28 facilities associated with new road construction. For purposes of this
29 section, "new roads" includes roads that are new alignments. Roads
30 that add to or replace an existing roadway are not "new roads."

31 NEW SECTION. **Sec. 6.** A new section is added to chapter 90.71 RCW
32 to read as follows:

33 Consistent with RCW 90.71.340, the Puget Sound partnership must use
34 taxes deposited in the Puget Sound recovery account as provided under
35 RCW 82.21.030(1)(b) to fund activities or capital projects that are

1 consistent with the prioritization of the 2020 action agenda. The
2 department of transportation may deduct administrative costs of no more
3 than four percent.

4 NEW SECTION. **Sec. 7.** A new section is added to chapter 90.48 RCW
5 to read as follows:

6 (1) The state clean water account is created in the state treasury.
7 Receipts from the tax imposed under RCW 82.21.030(1)(b) must be
8 deposited in the account as provided in RCW 82.21.030. Moneys in the
9 state clean water account are allocated to the department of ecology
10 and may be spent only after appropriation. The account may not be used
11 to fund specific state activities that are required to be funded
12 through fees paid by state and federal water quality permittees.

13 (2) Moneys in the state clean water account may be used only for
14 state responsibilities to carry out the purposes of this chapter to:
15 Prevent pollution of streams, rivers, aquifers, and drinking water;
16 prevent beach and shellfish bed closures due to polluted surface
17 runoff; and protect fish and wildlife habitat from polluted surface
18 runoff. More specifically, moneys must be used for, but not limited
19 to, the following purposes:

20 (a) Prevention of oil spills including vessel and oil
21 transportation and handling facility inspections, coordination and
22 evaluation of oil spill drills, and contingency plan review;

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

27 (c) Improved storm water research, data management, and monitoring;

28 (d) Development of clean water guidance and best management
29 practices for nonpermitted surface runoff activities; and

30 (e) Improved source control actions, such as collaboration with
31 local governments to provide local source control inspectors.

32 NEW SECTION. **Sec. 8.** 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. 9.** 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 June 1, 2010.

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