

SENATE BILL REPORT

SHB 2733

As of February 27, 2012

Title: An act relating to rates and charges for storm water control facilities.

Brief Description: Concerning rates and charges for storm water control facilities.

Sponsors: House Committee on Transportation (originally sponsored by Representatives Jinkins, Upthegrove and Clibborn).

Brief History: Passed House: 2/13/12, 62-36.

Committee Activity: Environment: 2/21/12, 2/22/12 [DP-TRAN, DNP, w/oRec].
Transportation: 2/27/12.

SENATE COMMITTEE ON ENVIRONMENT

Majority Report: Do pass and be referred to Committee on Transportation.
Signed by Senators Nelson, Chair; Rolfes, Vice Chair; Chase, Fraser and Pridemore.

Minority Report: Do not pass.
Signed by Senator Honeyford.

Minority Report: That it be referred without recommendation.
Signed by Senators Ericksen, Ranking Minority Member; Morton.

Staff: Karen Epps (786-7424)

SENATE COMMITTEE ON TRANSPORTATION

Staff: Clint McCarthy (786-7319)

Background: The federal Clean Water Act (CWA) establishes the National Pollutant Discharge Elimination System (NPDES) permit system to regulate wastewater and storm water discharges from point sources to surface waters. The NPDES permits are required for anyone who discharges wastewater or storm water to surface waters, or who has a significant potential to impact surface waters. The Department of Ecology (DOE) is delegated federal CWA authority by the United States Environmental Protection Agency.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

DOE also administers state discharge permits. A wastewater discharge permit places limits on the quantity and concentrations of contaminants that may be discharged and may require wastewater treatment or impose operating or other conditions. DOE issues individual permits, covering single, specific activities or facilities, and general permits, covering a category of similar dischargers, in the state and the NPDES permit programs. General permits include, but are not limited to, the construction storm water general permit, the sand and gravel general permit, the industrial storm water general permit, and the municipal storm water permits.

Local government utilities may charge the Washington State Department of Transportation (WSDOT) for the construction, operation, and maintenance of storm water control facilities under certain conditions:

- The rate to be charged is 30 percent of the rate for comparable real property.
- The rate is only charged for limited-access facilities.
- The rate charged to the state may not be greater than the rate charged to cities and counties within the same jurisdiction.

These charges to the state are declared to be presumptively fair and equitable because the state invests in the construction, operation, and maintenance of storm water control facilities that control runoff from state highways. Funds paid by the state must be used solely for storm water control facilities that directly reduce state highway runoff impacts or to implement best management practices that reduce the need for storm water control facilities. Local government utilities are required to develop an annual plan for the expenditure of the storm water charges and provide a progress report on the use of charges assessed for the prior year.

Summary of Bill: Local government utilities may charge the state regardless of whether the utility charges its own streets or roads for storm water impacts. Utilities that do not charge the state for storm water impacts during fiscal year 2013 may charge the state at 10 percent of the rate for comparable real property during fiscal year 2014, 20 percent of the rate during fiscal year 2015, and 30 percent of the rate during fiscal year 2016 and thereafter.

Local government utilities may charge their own streets or other local entities at any rate determined by the legislative authority of that local government utility. Utilities must clearly demonstrate that funds received by local storm water utilities from the state are used solely for storm water facilities that reduce state highway runoff impacts or that implement practices which reduce the need for storm water facilities.

Current planning and reporting requirements are removed. Local government utilities and WSDOT are directed to develop a simplified planning and reporting process for storm water fees; this process may include a determination of the comparable property upon which the rate charged to the state is based. If charges to the state exceed appropriations for this purpose, WSDOT must seek additional appropriations from the Legislature.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on July 1, 2013.

Staff Summary of Public Testimony (Environment): PRO: This bill is trying to take a modest approach from the recommendations made to the Joint Transportation Committee over the interim. This bill eliminates the need for cities to charge their own streets in order to seek reimbursement from WSDOT. This bill clarifies how cities can charge their own streets or not as part of their storm water utility. This bill provides WSDOT with time to build this into their budget. This bill revolves around how jurisdictions can recover costs from WSDOT as it relates to storm water. This bill applies to limited access highways, 440 miles of the more than 7000 miles that the WSDOT owns. This would include I-5, I-90, etc. This bill continues a 70 percent credit that WSDOT currently has related to these costs. This bill requires mitigation directly to the impacts off of these state highways. This bill simplifies reporting requirements. The key distinction from current law is that this bill repeals the requirement that local utilities must charge their own streets. One of the current difficulties with the system is that utilities are not allowed to charge WSDOT for their use and their impacts. The runoff from WSDOT is re-polluting the Thea Foss waterway. This is a significant environmental impact, and these costs should not be shifted to local rate payers. This bill phases in these costs over a three-year period of time.

CON: There are concerns about the cost impacts with this bill. The projected cost estimates are \$4 million. WSDOT currently pays \$4 million in a biennium, so this bill would double those costs. Historically, those costs have increased, so there will be more costs into the future. WSDOT is concerned with having these costs go up and then not having the funds available, in which case WSDOT will have to redirect funds from other maintenance activities to cover these costs.

Persons Testifying (Environment): PRO: Representative Jinkins, prime sponsor; Ashley Probart, Assn. of WA Cities; Dick McKinley, Tacoma.

CON: Rico Baroga, WSDOT.

Staff Summary of Public Testimony (Transportation): PRO: It is time to update the ways that local governments can recoup funds spent on stormwater due to the state highway systems. It shifts costs back to the state. The shift is done incrementally so that the state can plan for absorbing costs. Legislation on the books today pre-dates how stormwater works today. If cities don't charge their own streets, they cannot be reimbursed by WSDOT. Ratepayers in cities are forced to pick up the costs of stormwater because the state isn't paying its fair share. Costs represent a small amount of the budget for WSDOT.

CON: A fiscal issue with WSDOT. \$4 million on top of the \$4 million WSDOT is already paying for stormwater reimbursements. If the Legislature doesn't provide funding, it comes out of the maintenance program. WSDOT is spending \$38.5 million. Millions of dollars go towards new stormwater commitments from capital construction.

Persons Testifying (Transportation): PRO: Representative Jinkins, prime sponsor; Ashley Probart, Assn. of WA Cities; Dick McKinley, City of Tacoma; Michael Shaw, citizen.

CON: Rico Baroga, WSDOT.