SENATE BILL REPORT
SB 5604

As of February 10, 2011

Title: An act relating to creating clean water jobs through storm water pollution funding.

Brief Description: Concerning creating clean water jobs through storm water pollution funding.

Sponsors: Senators Nelson, Murray, Rockefeller, Kline, Keiser, Conway, Fraser, Regala, Shin, Kohl-Welles and Chase.

Brief History:
Committee Activity: Ways & Means: 2/10/11.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Chris Godwin (786-7441)

Background: The federal Clean Water Act obligates states and municipalities to manage storm water runoff. In the state of Washington, there are also state and local laws relating to storm water management. The Department of Ecology (DOE) is the dedicated agency in charge of managing storm water runoff. Storm water infrastructure projects received state funding in the 2010 supplemental budget.

The Clean Water Act (CWA) establishes the National Pollutant Discharge Elimination System (NPDES) permit program. The federal CWA and implementing Environmental Protection Agency storm water regulations established two phases for NPDES permits to control storm water discharges from certain industries, construction sites, and municipalities operating municipal separate storm sewer systems. NPDES phase I permits were first issued in Washington State in the mid-1990s to cities with populations over 100,000 (Seattle and Tacoma). DOE started issuing phase II permits in 2007.

In addition to NPDES permit responsibilities, DOE administers a state program regulating discharges from certain commercial, industrial, and municipal operations to ground or to publicly owned treatment plants. State law requires all pollution dischargers to use all known, available, and reasonable treatment methods to prevent and control water pollution.

Local governments have responsibility under federal and state law to manage storm water and construct and operate storm water management systems. Local governments may be

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subject to storm water management regulations through both the federal NPDES permit program and state pollution discharge permits.

Summary of Bill: DOE is directed to collect a fee on petroleum products to offset the costs to local jurisdictions of managing storm water runoff. Fee revenue is deposited into the Storm Water Pollution Account and is directed toward projects that address storm water runoff.

Fee Collection. A fee is collected on petroleum products at the point of first possession and DOE administers the collection and distribution of the fee revenue. The fee is 1 percent of the wholesale value of the product purchased. The fee is leveraged on the first possession of the product.

The petroleum products eligible for the fee include:
- any plant condensate;
- lubricating oil;
- crankcase motor oil;
- gasoline;
- aviation fuel;
- kerosene;
- diesel motor fuel;
- benzol;
- fuel oil;
- residual fuel;
- asphalt base;
- liquefied or liquefiable gases; and
- every other product derived from refining crude oil, except crude oil.

The fee does not apply to fuel that is in a vehicle fuel tank and being used to power the vehicle. The fee does not apply to any successive possession. The fee does not apply to purchases for personal or domestic use.

A credit would be issued against the fee for fees paid on initial possession of a petroleum product that is subsequently exported outside the state for sale as well as on fuel in the tank of a vehicle that is leaving the state.

Revenue Distribution. Revenue in the Storm Water Pollution Account must be spent on projects that abate pollutants in storm water runoff. The funds must be distributed annually as follows:
1. $75,000 to each local government subject to phase I or phase II permit requirements;
2. $11 million to the Department of Transportation; and
3. $3 million as grants to nonprofit organizations developing storm water technologies.

The remaining funds are distributed as follows:
1. 45 percent to local government covered by phase I or phase II permits for storm water – these grants require a 50 percent match from the local government;

2. 45 percent to local government for retrofit projects with low-impact development strategies or for projects addressing air emissions related to storm water pollutants; and
3. 10 percent to projects rated as high priority by DOE.

Capital projects over $1 million must use apprentices for at least 15 percent of the total labor hours.

Appropriation: None.

Fiscal Note: Available.
[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.