

SENATE BILL REPORT

SB 6207

As of February 16, 2012

Title: An act relating to fiscal relief to cities and counties during periods of economic downturn by delaying new storm water requirements.

Brief Description: Providing fiscal relief to cities and counties during periods of economic downturn by delaying new storm water requirements.

Sponsors: Senators Schoesler, Swecker, Hatfield, Hobbs, Becker, Stevens, Honeyford, Ericksen, Parlette, Hewitt and Holmquist Newbry.

Brief History:

Committee Activity: Environment: 1/24/12.

SENATE COMMITTEE ON ENVIRONMENT

Staff: Karen Epps (786-7424)

Background: The federal Clean Water Act (CWA) sets effluent limitations for discharges of pollutants. Pollutant is defined in CWA to include a variety of materials that may be discharged into water through human activities, construction or industrial processes, or other methods. The Department of Ecology (Ecology) is delegated federal CWA authority by the U.S. Environmental Protection Agency (EPA). Ecology also is the agency authorized by state law to implement state water quality programs.

CWA establishes the National Pollutant Discharge Elimination System (NPDES) permit system to regulate wastewater discharges from point sources to surface waters. Point sources are defined generally as discernable, discrete, and confined conveyances from which pollutant discharges can or do occur. NPDES permits are required for anyone who discharges wastewater to surface waters or who has a significant potential to impact surface waters.

NPDES permits also are required for storm water discharges from certain industries, construction sites of specified sizes, and municipalities operating municipal separate storm sewer systems that meet specified criteria. The EPA phase II regulations went into effect in early 2003 and apply to all regulated small municipal separate storm sewer systems. On January 17, 2007, Ecology issued two phase II municipal storm water permits: one for western Washington and one for eastern Washington with an effective date

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of February 16, 2007. By July 31, 2012, Ecology must extend for a term of one year and without modification any NPDES municipal storm water general permit first issued on January 17, 2007. Additionally, Ecology must issue an updated permit for any such permit, and the update permit becomes effective on August 1, 2013.

Summary of Bill: By July 31, 2012, Ecology must extend for a term of three years and without modification any NPDES municipal storm water general permit first issued on January 17, 2007. Additionally, Ecology must issue an updated permit for any such permit, and the update permit becomes effective on August 1, 2015.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: The new storm water requirements are unfunded mandates back to cities and counties. Local governments are struggling financially and this bill provides one way to help local governments. The new storm water requirements are particularly difficult for the border counties that are competing with Idaho counties that only comply with federal regulations and are not subject to the requirements in Washington. This bill provides relief to cities until there is some improvement in our state economy. Phase II permittees have been struggling to meet the requirements of the existing permit. The draft new permit goes too far on low impact development. There are issues with putting Phase I and Phase II permittees on different schedules. It would be helpful to wait until the EPA audit before issuing a new permit. A five-year delay would be better.

CON: The delay that was implemented last session has provided a solution for fiscal relief that cities and counties need. The delay has allowed for an extensive public comment period. The new permit provides a compliance schedule that will put implementation of some key requirements into 2015. There is concern that by extending the time, the state is going beyond EPA regulations and that could lead to potential litigation. Delay would be illegal under federal law. The state can no longer delay or afford more delay in cleaning up Puget Sound or the waters of our state. Extending the deadlines will only lead to greater costs for local governments in the future because as contamination increases, so will the costs of cleanup. Storm water is a major source of pollution to the aquatic lands of the state and will contribute to further contamination unless new permits are adopted.

Persons Testifying: PRO: Senator Schoesler, prime sponsor; Carl Schroeder, Assn. of WA Cities; George Walk, Pierce County.

CON: Don Seeberger, Ecology; Katelyn Kinn, Puget Soundkeeper Alliance; Kristin Swenddal, Dept. of Natural Resources.