

SENATE BILL REPORT

SB 5435

As of February 21, 2013

Title: An act relating to the creation of a storm water compliance pilot project.

Brief Description: Regarding the creation of a storm water compliance project.

Sponsors: Senators Cleveland and Rivers.

Brief History:

Committee Activity: Energy, Environment & Telecommunications: 2/19/13.

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

Staff: Jan Odano (786-7486)

Background: The federal Clean Water Act (CWA) establishes the National Pollutant Discharge Elimination System (NPDES), which regulates stormwater discharges. The NPDES permitting authority is delegated to the state, allowing the Department of Ecology (Ecology) to issue stormwater permits to cities and counties.

NPDES permits are required for anyone who discharges wastewater to surface waters or who has a significant potential to impact surface waters. Municipal stormwater permits authorize stormwater discharges to surface and groundwaters of the state, and vary in form depending on the size and density of the regulated municipality, and impairment levels of receiving water bodies. The municipal stormwater permits were issued in two phases. Phase I municipal stormwater permits were required for medium and large cities or populations of 100,000 or more. Phase II permits extend the NPDES stormwater program to small systems in urbanized areas not already covered by the Phase I program.

Municipal stormwater permit holders must fulfill certain stormwater prevention and management responsibilities enumerated in the permit. These responsibilities may include requirements to detect illicit stormwater discharges, control stormwater runoff from development and construction activities, institute structural improvements to reduce discharges, and minimize the accumulation of pollution in areas where it will be conveyed for untreated discharge during a storm.

Summary of Bill: The bill as referred to committee not considered.

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.

Summary of Bill (Proposed First Substitute): Ecology must conduct a municipal stormwater control pilot project to evaluate an alternative approach to the municipal stormwater management permit requirement.

The pilot project must add to the existing best available science for stormwater management, comply with all federal and state water quality laws, provide similar protection to receiving waters as required under the NPDES permit, and address potential deficiencies in the alternative approach identified by the Pollution Control Hearings Board.

The pilot partner must be chosen by Ecology and may be any county that is subject to Phase I stormwater requirements and that has received a notice of violation relating to stormwater compliance prior to January 1, 2010. The county pilot project partner must design an alternative compliance plan as the formal modification to the NPDES permit. The basis of the alternative approach must include the premise that new development in the project area manages stormwater to existing conditions and the pilot project partner mitigates the impacts of existing development. The alternative compliance plan proposal and funding information must be submitted to Ecology for review and approval by July 1, 2014. Ecology is under no obligations if there is no eligible pilot project partner willing to participate.

Ecology must submit a report to the Legislature with recommendations regarding the effectiveness of the alternative compliance plan on benefitting water quality and applicability for other jurisdictions.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: CON: This bill would reward Clark County for being a bad actor. All of the other Phase I permittees are in compliance with NPDES permits except Clark County. This bill would create confusion and problems with interpreting the requirements for stormwater discharges. The low-impact development techniques have been proven to be a cost-effective and efficient control of stormwater.

Persons Testifying: CON: Bruce Wishart, Waterkeepers WA; Chris Wilke, Puget Soundkeeper Alliance; Darcy Nonemacher, WA Environmental Council; Don Seeberger, Ecology; John Felton, Rosemere Neighborhood Assn.; Paul Niegel, Vancouver Resident; Carol Panfilio, Vancouver Resident

Signed In, Unable to Testify: PRO: Laura Merrill, WA State Assn. of Counties; Axel Swanson, Ron Wierenga, Clark County; Jaime Housley, Clark County Realtors, Bureau of Indian Affairs; Paul Montague, Identity Clark County; Lisa Nisenfeld, Columbia River Economic Council.