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SENATE BILL 6117

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State of Washington

63rd Legislature

2014 Regular Session

By Senators Benton, Sheldon, Dansel, Angel, King, Schoesler, Tom, Braun, Becker, Padden, Honeyford, and Roach

Read first time 01/15/14. Referred to Committee on Energy, Environment & Telecommunications.

1 AN ACT Relating to storm water control facility rates; and amending  
2 RCW 90.03.525.

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

4 **Sec. 1.** RCW 90.03.525 and 2005 c 319 s 140 are each amended to  
5 read as follows:

6 (1) The rate charged by a local government utility to the  
7 department of transportation with respect to state highway right-of-way  
8 or any section of state highway right-of-way for the construction,  
9 operation, and maintenance of storm water control facilities under  
10 chapters 35.67, 35.92, 36.89, 36.94, 57.08, and 86.15 RCW, shall be  
11 ~~((thirty))~~ one hundred percent of the rate for comparable real  
12 property, except as otherwise provided in this section. The rate  
13 charged to the department with respect to state highway right-of-way or  
14 any section of state highway right-of-way within a local government  
15 utility's jurisdiction shall not, however, exceed the rate charged for  
16 comparable city street or county road right-of-way within the same  
17 jurisdiction. ~~((The legislature finds that the aforesaid rates are  
18 presumptively fair and equitable because of the traditional and  
19 continuing expenditures of the department of transportation for the~~

1 ~~construction, operation, and maintenance of storm water control~~  
2 ~~facilities designed to control surface water or storm water runoff from~~  
3 ~~state highway rights-of-way.))~~

4 (2) Charges paid under subsection (1) of this section by the  
5 department of transportation must be used solely for storm water  
6 control facilities that directly reduce state highway runoff impacts or  
7 implementation of best management practices that will reduce the need  
8 for such facilities. By January 1st of each year, beginning with  
9 calendar year 1997, the local government utility, in coordination with  
10 the department, shall develop a plan for the expenditure of the charges  
11 for that calendar year. ~~((The plan must be consistent with the~~  
12 ~~objectives identified in RCW 90.78.010.))~~ In addition, beginning with  
13 the submittal for 1998, the utility shall provide a progress report on  
14 the use of charges assessed for the prior year. No charges may be paid  
15 until the plan and report have been submitted to the department.

16 (3) The utility imposing the charge and the department of  
17 transportation may, however, agree to either higher or lower rates with  
18 respect to the construction, operation, or maintenance of any specific  
19 storm water control facilities based upon the annual plan prescribed in  
20 subsection (2) of this section. If, after mediation, the local  
21 government utility and the department of transportation cannot agree  
22 upon the proper rate, either may commence an action in the superior  
23 court for the county in which the state highway right-of-way is located  
24 to establish the proper rate. The court in establishing the proper  
25 rate shall take into account the extent and adequacy of storm water  
26 control facilities constructed by the department and the actual  
27 benefits to the sections of state highway rights-of-way from storm  
28 water control facilities constructed, operated, and maintained by the  
29 local government utility. Control of surface water runoff and storm  
30 water runoff from state highway rights-of-way shall be deemed an actual  
31 benefit to the state highway rights-of-way. The rate for sections of  
32 state highway right-of-way as determined by the court shall be set  
33 forth in terms of the percentage of the rate for comparable real  
34 property, but shall in no event exceed the rate charged for comparable  
35 city street or county road right-of-way within the same jurisdiction.

36 (4) The legislature finds that the federal clean water act  
37 (national pollutant discharge elimination system, 40 C.F.R. parts 122-  
38 124), the state water pollution control act, chapter 90.48 RCW, and the

1 highway runoff program under chapter 90.71 RCW, mandate the treatment  
2 and control of storm water runoff from state highway rights-of-way  
3 owned by the department of transportation. Appropriations made by the  
4 legislature to the department of transportation for the construction,  
5 operation, and maintenance of storm water control facilities are  
6 intended to address applicable federal and state mandates related to  
7 storm water control and treatment. This section is not intended to  
8 limit opportunities for sharing the costs of storm water improvements  
9 between cities, counties, and the state.

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