

**2SHB 3181 - H AMD 1558**

By Representatives Ormsby, Nelson, Pettigrew, Simpson, Green, Dunshee

03/08/2010

1       Strike everything after the enacting clause and insert the  
2 following:

3       "NEW SECTION.   **Sec. 1.** This act may be known and cited as the  
4 clean water act of 2010.

5       NEW SECTION.   **Sec. 2.** (1) The legislature finds that nonpoint  
6 water pollution and contaminated storm water runoff is a major problem  
7 in the state creating a significant burden on the rivers, aquifers,  
8 lakes, streams, and marine receiving waters across Washington.

9       (2) The legislature recognizes that the burden of nonpoint and  
10 storm water pollution is caused by both increased volumes of water  
11 runoff due to the expansion of impervious surfaces and the toxic  
12 substances that pollute the runoff. The burden of storm water and  
13 nonpoint pollution from hazardous substances is difficult to offset  
14 because the source of pollution is not a single physical point, but  
15 occurs wherever the toxic substances are manufactured, used, or  
16 consumed.

17       (3) The legislature finds that the federal government and the state  
18 of Washington have identified control of pollutants in storm water  
19 runoff through national pollutant discharge elimination system phase I  
20 and II municipal storm water permits as a requirement for the state and  
21 local jurisdictions. Impacts from the polluted storm water may be  
22 prevented or controlled through retrofit projects for existing  
23 infrastructure as well as other means.

24       (4) The legislature finds that resources available to offset the  
25 direct burdens of storm water pollution by hazardous substances are  
26 insufficient to meet existing needs. Existing funding is raised  
27 largely by local governments and is disproportionately borne by fees  
28 levied on individuals and property owners.

1 (5) Finally, the legislature finds that increasing the tax on  
2 hazardous substances is necessary to fund programs that will offset the  
3 burdens that pollution places on the environment and the waters of the  
4 state.

5 **Sec. 3.** RCW 82.21.030 and 1989 c 2 s 10 are each amended to read  
6 as follows:

7 (1)(a) A tax is imposed on the privilege of possession of hazardous  
8 substances in this state. The rate of the tax (~~((shall be))~~) is seven-  
9 tenths of one percent multiplied by the wholesale value of the  
10 substance.

11 (b) Beginning May 1, 2010, an additional tax is imposed on the  
12 privilege of possession of hazardous substances in this state. The  
13 rate of the tax is 0.85 percent multiplied by the wholesale value of  
14 the substance. A credit is allowed, in accordance with rules adopted  
15 by the department, for taxes paid under this subsection (1)(b) with  
16 respect to any possession of petroleum products when the petroleum  
17 products are exported for use or sale outside this state.

18 (2)(a) Moneys collected under (~~(this chapter shall)~~) subsection  
19 (1)(a) of this section must be deposited in the toxics control accounts  
20 under RCW 70.105D.070 and expended in accordance with the purposes  
21 stated therein.

22 (b) Moneys collected under subsection (1)(b) of this section must  
23 be deposited into the clean water legacy fund hereby created in the  
24 state treasury.

25 (3) Chapter 82.32 RCW applies to the tax imposed in this chapter.  
26 The tax due dates, reporting periods, and return requirements  
27 applicable to chapter 82.04 RCW apply equally to the tax imposed in  
28 this chapter.

29 NEW SECTION. **Sec. 4.** A new section is added to chapter 90.48 RCW  
30 to read as follows:

31 (1) The storm water account is created in the state treasury. Any  
32 moneys in the account are allocated to the department of ecology and  
33 may be spent only after appropriation. Expenditures from the account  
34 must be used on activities or projects that mitigate or prevent storm  
35 water pollution as provided in this section.

1 (2)(a) After deducting the department's administrative costs of no  
2 more than four percent of the appropriations included in the omnibus  
3 operating and capital appropriations acts associated with administering  
4 a competitive grant process, moneys must be distributed annually as  
5 provided in (b) of this subsection.

6 (b)(i) By January 1, 2011, and by January 1st of each year  
7 thereafter, seventy-five thousand dollars must be provided to each  
8 jurisdiction that is subject to the national pollutant discharge  
9 elimination system phase I or phase II requirements.

10 (ii)(A) Until July 1, 2011, all of the remaining moneys must be  
11 allocated through the grant process to local governments covered by  
12 national pollutant discharge elimination system municipal phase I or  
13 phase II permits to fund local government projects or activities that  
14 mitigate or prevent contamination of storm water or the recontamination  
15 of receiving waters previously remediated under federal or state-  
16 approved activities. To be eligible, local governments must provide  
17 fifty percent of project or activity costs from other nonstate fund  
18 sources.

19 (B) Beginning July 1, 2011, fifty percent of the remaining moneys  
20 must be allocated through the grant process described in (b)(ii)(A) of  
21 this subsection.

22 (iii) Beginning July 1, 2011, forty percent of the remaining moneys  
23 must be allocated through the grant process to local governments for  
24 retrofit projects that address contamination of storm water, or  
25 projects that directly reduce toxic diesel emissions that result in air  
26 deposition of storm water pollutants. The moneys for retrofit projects  
27 must be prioritized for projects that utilize low-impact development  
28 retrofit strategies, but moneys may be awarded for other retrofit  
29 projects if the site does not lend itself to low-impact development  
30 techniques or other retrofit techniques that are shown to be more  
31 effective in terms of addressing water quality problems associated with  
32 the site.

33 (iv) Beginning July 1, 2011, ten percent of the remaining moneys  
34 must be allocated through either existing storm water grant programs or  
35 the grant process to projects under (b)(i) or (ii) of this subsection  
36 and to the highest priority projects based upon ecological and water  
37 quality benefits determined by the department. For projects qualifying

1 under this subsection, moneys may be allocated to meet the matching  
2 requirements under (b)(i) of this subsection to jurisdictions that  
3 demonstrate economic hardship in meeting the matching requirement.

4 (3) In consultation with stakeholders, the department must develop  
5 criteria for administering the program and ranking projects for funding  
6 based on water quality benefits. In developing criteria applicable to  
7 projects in the Puget Sound basin, the department must consult with the  
8 Puget Sound partnership. Consistent with RCW 90.71.340, when making  
9 grants under this section that contribute to Puget Sound protection and  
10 recovery, the department must consult with the Puget Sound partnership  
11 to ensure that grants are for projects and activities that are  
12 consistent with the prioritization of the 2020 action agenda. All  
13 activities or capital projects approved for funding must demonstrate  
14 the potential to achieve clear ecological or water quality benefits.  
15 The department must endeavor to distribute the moneys within each  
16 geographic region of the state in proportion to the severity of impacts  
17 to waterways from storm water pollution.

18 (4) The department must initiate the grant application process by  
19 July 1, 2010.

20 (5) By December 1, 2013, and every two years thereafter, the  
21 department must report to the governor and the appropriate committees  
22 of the legislature on the progress of the program and the suitability  
23 of the percentage allocations specified in subsection (2)(b) of this  
24 section.

25 (6) The definitions in this section apply throughout this section  
26 unless the context clearly requires otherwise.

27 (a) "Department" means the department of ecology.

28 (b) "Low-impact development" means a storm water management and  
29 land use strategy applied, where feasible, at the parcel and  
30 subdivision, or drainage area, level that emphasizes conservation and  
31 use of on-site natural features integrated with engineered, small-scale  
32 hydrologic controls to more closely mimic predevelopment hydrologic  
33 functions.

34 (c) "Retrofit" means the renovation of existing development to  
35 improve or eliminate storm water problems associated with the site or  
36 drainage area.

1        NEW SECTION.    **Sec. 5.** A new section is added to chapter 90.48 RCW  
2 to read as follows:

3        (1) The water quality action account is created in the state  
4 treasury. Any moneys in the water quality action account are allocated  
5 to the department of ecology and may be spent only after appropriation.  
6 The account may not be used to fund specific state activities that are  
7 required to be funded through fees paid by state and federal water  
8 quality permittees.

9        (2) Moneys in the water quality action account may be used only for  
10 state responsibilities to carry out the purposes of this chapter to:  
11 Prevent pollution of streams, rivers, aquifers, marine receiving  
12 waters, and drinking water; prevent beach and shellfish bed closures  
13 due to polluted surface runoff; and protect fish and wildlife habitat  
14 from polluted surface runoff. More specifically, moneys may be used  
15 for, but not limited to, the following purposes:

16        (a) Creation and maintenance of a storm water technology center to  
17 assist businesses and governmental entities by developing resources for  
18 testing, monitoring, adopting, and implementing new clean water  
19 practices and technologies;

20        (b) Improved storm water research, data management, and monitoring;

21        (c) Development of clean water guidance and best management  
22 practices for nonpermitted surface runoff activities; and

23        (d) Improved source control actions, such as collaboration with  
24 local governments to provide local source control inspectors.

25        NEW SECTION.    **Sec. 6.** A new section is added to chapter 90.71 RCW  
26 to read as follows:

27        Consistent with RCW 90.71.340, the Puget Sound partnership must use  
28 any money deposited in the Puget Sound recovery account from the clean  
29 water legacy fund to fund activities or capital projects that are  
30 consistent with the prioritization of the 2020 action agenda.

31        NEW SECTION.    **Sec. 7.** If any provision of this act or its  
32 application to any person or circumstance is held invalid, the  
33 remainder of the act or the application of the provision to other  
34 persons or circumstances is not affected.

1        NEW SECTION.    **Sec. 8.**    This act is necessary for the immediate  
2    preservation of the public peace, health, or safety, or support of the  
3    state government and its existing public institutions, and takes effect  
4    May 1, 2010."

5        Correct the title.

EFFECT:    Replaces the annual 0.1 percent tax increase with a 0.85  
percent tax increase.    Changes the export exemption to a credit.  
Deposits the entire tax increase into a clean water legacy fund.    Adds  
back the water quality action account.    Removes section that requires  
money placed in motor vehicle account from the clean water legacy fund  
to be used for storm water related activities.

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