

# SENATE BILL REPORT

## ESHB 1614

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As of April 25, 2009

**Title:** An act relating to petroleum pollution in storm water.

**Brief Description:** Reducing the amount of petroleum pollution in storm water.

**Sponsors:** House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Ormsby, Priest, Rodne, Eddy, Hunt, Pettigrew, Upthegrove, Blake, Nelson, Appleton, Pedersen, Simpson, Darneille, Williams, Hudgins, Dunshee, McCoy and Wood).

**Brief History:** Passed House: 4/25/09, 51-45.

**Committee Activity:** Ways & Means:

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### SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Dianne Criswell (786-7433)

**Background:** A combination of federal, state, and local laws govern storm water management in Washington. The water quality implications of storm water runoff are addressed in the federal Clean Water Act. State water pollution control statutes also regulate water quality aspects of storm water management.

The federal Clean Water Act (CWA) establishes the National Pollutant Discharge Elimination System (NPDES) permit program to regulate wastewater discharges from point sources to surface waters. The United States Environmental Protection Agency (EPA) has delegated authority to the Washington Department of Ecology (Ecology) to issue NPDES permits. The federal CWA and implementing EPA storm water regulations established two phases for NPDES permits to control storm water discharges from certain industries and construction sites, and from municipalities operating municipal separate storm sewer systems.

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

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Local governments have responsibility under federal and state law to manage storm water and authority under state law to construct and operate storm water management systems. Local governments may be subject to storm water management regulations through both the federal NPDES permit program and state pollution discharge permits.

**Summary of Bill:** Effective January 1, 2010, a fee of \$1.50 per barrel of petroleum products is imposed on petroleum products that contribute to storm water pollution at the point of first possession of those products. "Petroleum products that contribute to storm water pollution" is defined as asphalt and road oil, lubricants, motor vehicle fuel, motor diesel fuel, residual fuel oil, and any other petroleum substance that Ecology determines contributes to storm water pollution in the state. Petroleum products exported from or sold for export are not subject to the fee.

This fee must be deposited into the Water Pollution Account with the money to be used on activities or capital projects that mitigate or prevent storm water pollution by petroleum products or storm water pollution associated with petroleum products.

Forty percent of the money will be made available to local governments as grants to fund activities or capital projects that address petroleum contamination of storm water. To be eligible for these grants, local governments must provide 50 percent of the project costs from other non-state sources.

An additional 40 percent of the money must be made available to local governments as grants for retrofit projects that address petroleum contamination of storm water. This portion of the money must be prioritized for low-impact development retrofit projects.

Ten percent of the money must be allocated as grants to the Department of Transportation to fund activities or capital projects that address petroleum contamination of storm water related to existing transportation infrastructure.

The remaining 10 percent must be allocated either as grants to fund capital projects or as grants for projects that address petroleum contamination of storm water specifically to the highest priority projects based upon ecological and water quality benefits determined by Ecology.

To qualify for funding, applicants must also demonstrate: (1) a clear relationship between the petroleum products that contribute to storm water pollution and the project's or activity's outcomes; and (2) that the project is an identified priority based on ecological or water quality needs throughout the jurisdiction, basin, or watershed.

Ecology must develop criteria for administering the program and ranking projects for funding. All approved projects must demonstrate the potential to achieve clear ecological or water quality benefits. Ecology must endeavor to distribute the monies within each geographic region of the state in proportion to the severity of impacts on the state's waters from petroleum contamination.

Ecology will administer the grant program and collect the fee. Ecology may retain 3 percent of the monies to administer the grant program. Grant applications must be initiated by July

1, 2010. By December 1, 2011, and every two years thereafter, Ecology must report to the Governor and the Legislature on the progress of the program and the suitability of revenue distributions.

**Appropriation:** None.

**Fiscal Note:** Requested on April 25, 2009.

[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.