

---

HOUSE BILL 2684

---

State of Washington                      62nd Legislature                      2012 Regular Session

By Representatives Jinkins and Upthegrove

Read first time 01/24/12. Referred to Committee on Transportation.

1            AN ACT Relating to rates and charges applicable to state highway  
2 rights-of-way for storm water control facilities; amending RCW  
3 90.03.525; and providing an effective date.

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

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

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

18            (b) The rate charged by a local government utility to its own or to  
19 another local government's streets or roads for the construction,

1 operation, and maintenance of storm water control facilities may be the  
2 same maximum rate as charged by the local government to the department  
3 of transportation under (a) of this subsection, or such other rate, or  
4 no rate, as may be determined by the legislative authority of that  
5 local government utility in consideration of the continuing  
6 expenditures of the local government for the construction, operation,  
7 and maintenance of storm water control facilities designed to control  
8 surface water or storm water runoff from local streets or roads.

9 (c) The legislature finds that the aforesaid rates applicable to  
10 the state, and rate determinations by the legislative authority of a  
11 local government utility for local highway rights-of-way, are  
12 presumptively fair and equitable because of the traditional and  
13 continuing expenditures of the department of transportation, cities,  
14 and counties for the construction, operation, and maintenance of storm  
15 water control facilities designed to control surface water or storm  
16 water runoff from state highway rights-of-way.

17 (2) Charges paid under subsection (1)(a) of this section by the  
18 department of transportation must be used solely for storm water  
19 control facilities that ~~((directly))~~ reduce ~~((state-highway))~~ runoff  
20 impacts or ~~((implementation-of))~~ that implement best management  
21 practices that will reduce the need for such facilities, consistent  
22 with "highway purposes" as that term is used in Article II, section 40  
23 of the state Constitution. ~~((By January 1st of each year, beginning~~  
24 ~~with calendar year 1997, the local government utility, in coordination~~  
25 ~~with the department, shall develop a plan for the expenditure of the~~  
26 ~~charges for that calendar year. The plan must be consistent with the~~  
27 ~~objectives identified in RCW 90.78.010. In addition, beginning with~~  
28 ~~the submittal for 1998, the utility shall provide a progress report on~~  
29 ~~the use of charges assessed for the prior year. No charges may be paid~~  
30 ~~until the plan and report have been submitted to the department.))~~

31 (3) The utility imposing the charge and the department of  
32 transportation may, however, agree to either higher or lower rates with  
33 respect to the construction, operation, or maintenance of any specific  
34 storm water control facilities ~~((based upon the annual plan prescribed~~  
35 ~~in subsection (2) of this section)).~~ If, after mediation, the local  
36 government utility and the department of transportation cannot agree  
37 upon the proper rate, either may commence an action in the superior  
38 court for the county in which the state highway right-of-way is located

1 to establish the proper rate. The court in establishing the proper  
2 rate shall take into account the extent and adequacy of storm water  
3 control facilities constructed by the department and the actual  
4 benefits to the sections of state highway rights-of-way from storm  
5 water control facilities constructed, operated, and maintained by the  
6 local government utility. Control of surface water runoff and storm  
7 water runoff from state highway rights-of-way shall be deemed an actual  
8 benefit to the state highway rights-of-way. The rate for sections of  
9 state highway right-of-way as determined by the court shall be set  
10 forth in terms of the percentage of the rate for comparable real  
11 property(~~(, but shall in no event exceed the rate charged for~~  
12 ~~comparable city street or county road right of way within the same~~  
13 ~~jurisdiction)~~).

14 (4) The legislature finds that the federal clean water act  
15 (national pollutant discharge elimination system, 40 C.F.R. parts 122-  
16 124), the state water pollution control act, chapter 90.48 RCW, and the  
17 highway runoff program under chapter 90.71 RCW, mandate the treatment  
18 and control of storm water runoff from state highway rights-of-way  
19 owned by the department of transportation. Appropriations made by the  
20 legislature to the department of transportation for the construction,  
21 operation, and maintenance of storm water control facilities are  
22 intended to address applicable federal and state mandates related to  
23 storm water control and treatment. This section is not intended to  
24 limit opportunities for sharing the costs of storm water improvements  
25 between cities, counties, and the state.

26 NEW SECTION. **Sec. 2.** This act takes effect July 1, 2013.

--- END ---