

# HOUSE BILL REPORT

## SB 5505

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### As Reported by House Committee On: Transportation

**Title:** An act relating to the use of local stormwater charges paid by the department of transportation.

**Brief Description:** Addressing the use of local stormwater charges paid by the department of transportation.

**Sponsors:** Senators Hobbs, King and Fortunato.

#### **Brief History:**

##### **Committee Activity:**

Transportation: 3/20/19, 4/8/19 [DP].

#### **Brief Summary of Bill**

- Requires that local government utilities that charge stormwater fees to the Washington State Department of Transportation (WSDOT) may use the fees only for stormwater control facilities and best management practices that directly address runoff from state highways as opposed to all types of stormwater runoff.
- Requires local government utilities to provide an expenditure plan and annual progress report before receiving the WSDOT stormwater fees.

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### HOUSE COMMITTEE ON TRANSPORTATION

**Majority Report:** Do pass. Signed by 21 members: Representatives Fey, Chair; Slatter, 2nd Vice Chair; Valdez, 2nd Vice Chair; Wylie, 1st Vice Chair; Barkis, Ranking Minority Member; Young, Assistant Ranking Minority Member; Chapman, Doglio, Dufault, Entenman, Gregerson, Kloba, Lovick, McCaslin, Mead, Ortiz-Self, Paul, Pellicciotti, Riccelli, Shewmake and Van Werven.

**Minority Report:** Do not pass. Signed by 7 members: Representatives Walsh, Assistant Ranking Minority Member; Boehnke, Dent, Eslick, Goehner, Orcutt and Shea.

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*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.*

**Minority Report:** Without recommendation. Signed by 2 members: Representatives Chambers and Irwin.

**Staff:** Megan McPhaden (786-7114).

**Background:**

The Clean Water Act prohibits discharges of pollutants from a point source into a water of the United States without a National Pollutant Discharge Elimination System (NPDES) permit. Under this framework, transportation authorities are responsible for managing stormwater runoff from streets and highways that discharges into a water of the United States. The Department of Ecology is authorized to administer the NPDES regulations and requires that municipal stormwater systems as well as the Washington State Department of Transportation (WSDOT) have a permit to discharge into a water of the United States. The WSDOT designs and constructs stormwater control facilities to manage stormwater discharges from state highways, rest areas, park and ride lots, ferry terminals, and maintenance facilities. Stormwater control facilities are defined to include any facility, improvement, development, or property that controls any storm, waste, flood, or surplus water.

Local government utilities may impose a charge per unit of surface area of real property to fund the construction, operation, and maintenance of stormwater control facilities that alleviate the runoff impacts from the property. These utilities may charge a rate to the WSDOT for state highway right-of-way and the rate must be 30 percent of the rate for comparable real property, and not be greater than the rate charged to comparable city and county roads. The utilities and the WSDOT may agree to higher or lower rates regarding a specific stormwater control facility and, if they do not agree, there is a process for the county superior court to establish a rate. Local government utilities must use the charges collected from the WSDOT only on stormwater control facilities or best management practices that reduce runoff. It does not matter whether the runoff impacts are directly related to state highways.

The 2014 Supplemental Transportation Budget made temporary changes to the allowable uses of the WSDOT stormwater fees and to the plan requirements for local governments. These changes were permanently enacted in 2015. The 2015 law authorized local government utilities to use the WSDOT stormwater fees for stormwater control facilities and best management practices for all types of runoff, rather than solely for facilities and best management practices focused only on state highway runoff. The requirement for an expenditure plan and progress report was also removed.

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**Summary of Bill:**

Local government utilities are directed to use the WSDOT stormwater fees only for stormwater control facilities or best management practices that directly reduce state highway runoff impacts. The local government utilities must provide an expenditure plan for the upcoming year and progress report for the prior year by January 1 each year, beginning in 2020, in order to receive the WSDOT's stormwater fees.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This would change stormwater payments back to how they were in 2013, when cities had to justify in a report that the WSDOT was causing stormwater problems in order to receive payments from the WSDOT. Since the temporary change in 2014, the amount taken from the WSDOT has gone from \$2 million to \$4.1 million and is quickly accelerating. Since the temporary change became permanent in 2015, total fees have increased by \$390,000 on average per year. Municipalities are now allowed to collect fees for any stormwater needs in their jurisdiction. It is appropriate and desirable to help cities and counties with the stormwater runoff caused by the WSDOT. The WSDOT wants to be a good steward of the environment. There are also budget constraints. The WSDOT spends \$15 million per biennium in addition to paying local jurisdictions. Spending continues to increase to manage stormwater before it leaves the state right-of-way in accordance with the WSDOT's NPDES permit.

(Opposed) This would hinder the ability of counties to levy fees necessary to protect watersheds from highway stormwater runoff. By limiting consideration to only the water quality impacts from state highways, county surface water programs cannot meet their responsibilities to address all impacts of a state highway system. The change in 2014 was a result of the Legislature commissioning a Joint Transportation Committee study in 2012 that found that these fees should be levied, and counties supported that change. Prior to 2014 it was difficult to use the fees. There is a relationship between the culvert injunction and stormwater because clean watersheds are needed to ensure healthy salmon habitat. Utilities spread costs across multiple users and the needs of a utility generally supersede the needs of a single ratepayer. This signals to counties that they must do more with less. It would be appreciated if the reporting requirement were practicable.

(Other) This would limit counties from being able to maintain programs that offset the impacts of highway runoff on local watersheds. The runoff from state highway right-of-way historically impacted and currently impacts local watersheds because most highways were constructed when there was little water quality treatment or detention ponds. These impacts include increased flows that contribute to downstream flooding and erosion, water quality issues, and degraded habitat. Local governments already grant the WSDOT a 70 percent discount on the fees by state law. Prior to 2014, rates could even be much lower than the 30 percent rate.

**Persons Testifying:** (In support) Senator Hobbs, prime sponsor; and Pasco Bakotich, Washington State Department of Transportation.

(Opposed) Brian Enslow, City of Vancouver; and Jane Wall, Washington State Association of County Engineers and Washington State Association of Counties.

(Other) Josh Weiss and Gregg Farris, Snohomish County.

**Persons Signed In To Testify But Not Testifying:** None.