

**RCW 90.03.525 Stormwater control facilities—Imposition of rates and charges with respect to state highway rights-of-way—Annual plan for expenditure of charges.**

(1) The rate charged by a local government utility to the department of transportation with respect to state highway right-of-way or any section of state highway right-of-way for the construction, operation, and maintenance of stormwater control facilities under chapters 35.67, 35.92, 36.89, 36.94, 57.08, and 86.15 RCW, shall be thirty percent of the rate for comparable real property, except as otherwise provided in this section. The rate charged to the department with respect to state highway right-of-way or any section of state highway right-of-way within a local government utility's jurisdiction shall not, however, exceed the rate charged for comparable city street or county road right-of-way within the same jurisdiction. The legislature finds that the aforesaid rates are presumptively fair and equitable because of the traditional and continuing expenditures of the department of transportation for the construction, operation, and maintenance of stormwater control facilities designed to control surface water or stormwater runoff from state highway rights-of-way.

(2) Charges paid under subsection (1) of this section by the department of transportation must be used solely for stormwater control facilities that directly reduce state highway runoff impacts or implementation of best management practices that will reduce the need for such facilities. By January 1st of each year, beginning with calendar year 2020, the local government utility, in coordination with the department of transportation, shall develop a plan for the expenditure of the charges for that calendar year. The plan must be consistent with the objectives identified in former RCW 90.78.010. In addition, the utility shall provide a progress report on the use of charges assessed for the prior year. No charges may be paid until the plan and report have been submitted to the department of transportation.

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

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

and the highway runoff program under chapter 90.71 RCW, mandate the treatment and control of stormwater runoff from state highway rights-of-way owned by the department of transportation. Appropriations made by the legislature to the department of transportation for the construction, operation, and maintenance of stormwater control facilities are intended to address applicable federal and state mandates related to stormwater control and treatment. This section is not intended to limit opportunities for sharing the costs of stormwater improvements between cities, counties, and the state. [2019 c 435 § 1; 2015 c 231 § 1; (2014 c 222 § 708 expired June 30, 2015); 2005 c 319 § 140. Prior: 1996 c 285 § 1; 1996 c 230 § 1617; 1986 c 278 § 54.]

**Effective date—2015 c 231:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 30, 2015." [2015 c 231 § 2.]

**Expiration date—2014 c 222 § 708:** "Section 708 of this act expires June 30, 2015." [2014 c 222 § 803.]

**Effective date—2014 c 222:** See note following RCW 47.28.030.

**Findings—Intent—Part headings—Effective dates—2005 c 319:** See notes following RCW 43.17.020.

**Part headings not law—Effective date—1996 c 230:** See notes following RCW 57.02.001.

**Severability—1986 c 278:** See note following RCW 36.01.010.