

2 **2SHB 2031** - S COMM AMD  
3 By Committee on Transportation

4

5 Strike everything after the enacting clause and insert the  
6 following:

7 "Sec. 1. RCW 90.03.525 and 1986 c 278 s 54 are each amended to  
8 read as follows:

9 (1) The rate charged by a local government utility to the  
10 department of transportation with respect to state highway right of way  
11 or any section of state highway right of way for the construction,  
12 operation, and maintenance of storm water control facilities under  
13 chapters 35.67, 35.92, 36.89, 36.94, 56.08, and 86.15 RCW, shall be  
14 thirty percent of the rate for comparable real property, except as  
15 otherwise provided in this section. The rate charged to the department  
16 with respect to state highway right of way or any section of state  
17 highway right of way within a local government utility's jurisdiction  
18 shall not, however, exceed the rate charged for comparable city street  
19 or county road right of way within the same jurisdiction. The  
20 legislature finds that the aforesaid rates are presumptively fair and  
21 equitable because of the traditional and continuing expenditures of the  
22 department of transportation for the construction, operation, and  
23 maintenance of storm water control facilities designed to control  
24 surface water or storm water runoff from state highway rights of way.

25 (2) Charges paid under subsection (1) of this section by the  
26 department of transportation must be used solely for storm water  
27 control facilities that directly reduce state highway runoff impacts or  
28 implementation of best management practices that will reduce the need  
29 for such facilities. By January 1st of each year, beginning with  
30 calendar year 1997, the local government utility, in coordination with  
31 the department, shall develop a plan for the expenditure of the charges  
32 for that calendar year. The plan must be consistent with the  
33 objectives identified in section 3 of this act. In addition, beginning  
34 with the submittal for 1998, the utility shall provide a progress  
35 report on the use of charges assessed for the prior year. No charges

1 may be paid until the plan and report have been submitted to the  
2 department.

3 (3) The utility imposing the charge and the department of  
4 transportation may, however, agree to either higher or lower rates with  
5 respect to the construction, operation, or maintenance of any specific  
6 storm water control facilities based upon the ~~((extent and adequacy of~~  
7 ~~storm water control facilities constructed by the department and upon~~  
8 ~~the actual benefits to state highway rights of way from the storm water~~  
9 ~~control facilities constructed by the local government utility)) annual  
10 plan prescribed in subsection (2) of this section. If a different rate  
11 is agreed to, a report so stating shall be submitted to the legislative  
12 transportation committee. If, after mediation, the local government  
13 utility and the department of transportation cannot agree upon the  
14 proper rate, and after a report has been submitted to the legislative  
15 transportation committee and after ninety days from submission of such  
16 report, either may commence an action in the superior court for the  
17 county in which the state highway right of way is located to establish  
18 the proper rate. The court in establishing the proper rate shall take  
19 into account the extent and adequacy of storm water control facilities  
20 constructed by the department and the actual benefits to the sections  
21 of state highway rights of way from storm water control facilities  
22 constructed, operated, and maintained by the local government utility.  
23 Control of surface water runoff and storm water runoff from state  
24 highway rights of way shall be deemed an actual benefit to the state  
25 highway rights of way. The rate for sections of state highway right of  
26 way as determined by the court shall be set forth in terms of the  
27 percentage of the rate for comparable real property, but shall in no  
28 event exceed the rate charged for comparable city street or county road  
29 right of way within the same jurisdiction.~~

30 (4) The legislature finds that the federal Clean Water Act  
31 (national pollution discharge elimination system, 40 C.F.R. parts 122-  
32 124), the state water pollution control act, chapter 90.48 RCW, and the  
33 highway runoff program under chapter 90.70 RCW, mandate the treatment  
34 and control of storm water runoff from state highway rights of way  
35 owned by the department of transportation. Appropriations made by the  
36 legislature to the department of transportation for the construction,  
37 operation, and maintenance of storm water control facilities are  
38 intended to address applicable federal and state mandates related to  
39 storm water control and treatment. This section is not intended to

1 limit opportunities for sharing the costs of storm water improvements  
2 between cities, counties, and the state.

3 NEW SECTION. **Sec. 2.** The legislature finds that the increasing  
4 population and continued development throughout the state have  
5 increased the need for storm water control. Storm water impacts have  
6 resulted in increased public health risks related to drinking water and  
7 agricultural and seafood products; increased disruption of economic  
8 activity, transportation facilities, and other public and private land  
9 and facilities due to the lack of adequate flood control measures;  
10 adverse affects on state fish populations; and contamination of  
11 sediments.

12 In addition, current storm water control and management efforts  
13 related to transportation projects lack necessary coordination on a  
14 watershed, regional, and state-wide basis; have inadequate funding; and  
15 fail to maximize use of available resources.

16 More stringent regulatory requirements have increased the costs  
17 that state and local governments must incur to deal with significant  
18 sources of pollution such as storm water. The costs estimated to  
19 properly maintain and construct storm water facilities far exceed  
20 available revenues.

21 Therefore, it is the intent of the legislature to establish a  
22 program to develop a state-wide coordination mechanism for the funding  
23 of state highway-related storm water management and control projects  
24 that will facilitate the completion of the state's most urgently needed  
25 storm water projects in the most cost-effective manner.

26 NEW SECTION. **Sec. 3.** The department of transportation, in  
27 cooperation with the department of ecology, cities, towns, counties,  
28 environmental organizations, business organizations, Indian tribes, and  
29 port districts, shall develop a storm water management funding and  
30 implementation program to address state highway-related problems. As  
31 part of the program, the department may provide grants to facilitate  
32 the construction of the highest priority state and local storm water  
33 management projects based on cost-effectiveness and contribution toward  
34 improved water quality and reduced flooding in a watershed.

35 The program shall address, but is not limited to, the following  
36 objectives: (1) Greater state-wide coordination of the construction of  
37 storm water treatment facilities; (2) encouraging multijurisdictional

1 projects; (3) developing priorities and approaches for implementing  
2 activities within watersheds; (4) identification and prioritization of  
3 storm water retrofit programs; (5) evaluating methods to determine cost  
4 benefits of proposed projects; (6) identifying ways to facilitate the  
5 sharing of technical resources; (7) developing methods for monitoring  
6 and evaluating activities carried out under the program; and (8)  
7 identifying potential funding sources for continuation of the program.

8 NEW SECTION. **Sec. 4.** The department of transportation may provide  
9 grants to implement state highway-related storm water control measures.  
10 Cities, towns, counties, port districts, Indian tribes, and the  
11 department of transportation are eligible to receive grants, on a  
12 matching basis. A committee consisting of two representatives each  
13 from the department of transportation, with one as chair, the  
14 department of ecology, cities, and counties, and one representative  
15 each from an environmental organization and a business organization,  
16 shall oversee the grant program. The committee may add representatives  
17 of other agencies, organizations, or interest groups to serve as  
18 members of the committee or in an advisory capacity. In developing  
19 project criteria, the committee shall identify the most urgent state  
20 highway-related storm water management and control problems; develop  
21 methods for applying priorities across watersheds; give added weight to  
22 projects based on local contribution, multijurisdictional involvement,  
23 and whether the project is a priority for a local storm water utility;  
24 and determine the benefits of, and, if appropriate, provide incentives  
25 for off-site placement of storm water facilities and out-of-kind  
26 mitigation for storm water impact.

27 NEW SECTION. **Sec. 5.** This chapter expires July 1, 2003.

28 NEW SECTION. **Sec. 6.** A new section is added to chapter 90.03 RCW  
29 to read as follows:

30 In the development of highway construction improvement projects,  
31 the department of transportation shall coordinate with adjacent local  
32 governments, ports, and other public and private organizations to  
33 determine opportunities for cost effective joint storm water treatment  
34 facilities for both new and existing impervious surfaces.

1        NEW SECTION.    **Sec. 7.**    By December 1, 1996, the department of  
2 transportation shall submit to the legislative transportation committee  
3 and the office of financial management a report on the implementation  
4 of the storm water management funding and implementation program. The  
5 report must include proposed criteria for project selection, procedures  
6 for managing the program, and recommendations for achieving program  
7 objectives identified in section 3 of this act. The report must make  
8 recommendations for ongoing funding of the program after evaluating  
9 potential sources including, but not limited to, the federal  
10 transportation enhancements program, the motor vehicle fund, the  
11 transportation fund, local and private contributions, user fees, and  
12 other grant sources. The report will also make recommendations for  
13 improving coordination of joint applications between the department of  
14 transportation and local governments for funds administered by the  
15 department of ecology and other sources.

16        NEW SECTION.    **Sec. 8.**    Sections 2 through 5 of this act constitute  
17 a new chapter in Title 90 RCW."

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21        In line 2 of the title, after "way;" strike the remainder of the  
22 title and insert "amending RCW 90.03.525; adding a new section to  
23 chapter 90.03 RCW; adding a new chapter to Title 90 RCW; creating a new  
24 section; and providing an expiration date."

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