

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 2031

Chapter 285, Laws of 1996

54th Legislature
1996 Regular Session

STORM WATER FACILITIES CHARGES FOR HIGHWAY RIGHTS OF WAY

EFFECTIVE DATE: 6/6/96

Passed by the House March 7, 1996
Yeas 98 Nays 0

CLYDE BALLARD
**Speaker of the
House of Representatives**

Passed by the Senate March 7, 1996
Yeas 48 Nays 0

JOEL PRITCHARD
President of the Senate

Approved March 30, 1996

MIKE LOWRY
Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 2031** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN
Chief Clerk

FILED

March 30, 1996 - 4:19 p.m.

**Secretary of State
State of Washington**

SECOND SUBSTITUTE HOUSE BILL 2031

AS AMENDED BY THE SENATE

Passed Legislature - 1996 Regular Session

State of Washington 54th Legislature 1996 Regular Session

By House Committee on Transportation (originally sponsored by Representative K. Schmidt)

Read first time 02/02/96.

1 AN ACT Relating to storm water facility charges for highway rights
2 of way; amending RCW 90.03.525; adding a new section to chapter 90.03
3 RCW; adding a new chapter to Title 90 RCW; creating a new section; and
4 providing an expiration date.

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

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

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

1 equitable because of the traditional and continuing expenditures of the
2 department of transportation for the construction, operation, and
3 maintenance of storm water control facilities designed to control
4 surface water or storm water runoff from state highway rights of way.

5 (2) Charges paid under subsection (1) of this section by the
6 department of transportation must be used solely for storm water
7 control facilities that directly reduce state highway runoff impacts or
8 implementation of best management practices that will reduce the need
9 for such facilities. By January 1st of each year, beginning with
10 calendar year 1997, the local government utility, in coordination with
11 the department, shall develop a plan for the expenditure of the charges
12 for that calendar year. The plan must be consistent with the
13 objectives identified in section 3 of this act. In addition, beginning
14 with the submittal for 1998, the utility shall provide a progress
15 report on the use of charges assessed for the prior year. No charges
16 may be paid until the plan and report have been submitted to the
17 department.

18 (3) The utility imposing the charge and the department of
19 transportation may, however, agree to either higher or lower rates with
20 respect to the construction, operation, or maintenance of any specific
21 storm water control facilities based upon the ((~~extent and adequacy of~~
22 ~~storm water control facilities constructed by the department and upon~~
23 ~~the actual benefits to state highway rights of way from the storm water~~
24 ~~control facilities constructed by the local government utility)) annual~~
25 plan prescribed in subsection (2) of this section. If a different rate
26 is agreed to, a report so stating shall be submitted to the legislative
27 transportation committee. If, after mediation, the local government
28 utility and the department of transportation cannot agree upon the
29 proper rate, and after a report has been submitted to the legislative
30 transportation committee and after ninety days from submission of such
31 report, either may commence an action in the superior court for the
32 county in which the state highway right of way is located to establish
33 the proper rate. The court in establishing the proper rate shall take
34 into account the extent and adequacy of storm water control facilities
35 constructed by the department and the actual benefits to the sections
36 of state highway rights of way from storm water control facilities
37 constructed, operated, and maintained by the local government utility.
38 Control of surface water runoff and storm water runoff from state
39 highway rights of way shall be deemed an actual benefit to the state

1 highway rights of way. The rate for sections of state highway right of
2 way as determined by the court shall be set forth in terms of the
3 percentage of the rate for comparable real property, but shall in no
4 event exceed the rate charged for comparable city street or county road
5 right of way within the same jurisdiction.

6 (4) The legislature finds that the federal Clean Water Act
7 (national pollution discharge elimination system, 40 C.F.R. parts 122-
8 124), the state water pollution control act, chapter 90.48 RCW, and the
9 highway runoff program under chapter 90.70 RCW, mandate the treatment
10 and control of storm water runoff from state highway rights of way
11 owned by the department of transportation. Appropriations made by the
12 legislature to the department of transportation for the construction,
13 operation, and maintenance of storm water control facilities are
14 intended to address applicable federal and state mandates related to
15 storm water control and treatment. This section is not intended to
16 limit opportunities for sharing the costs of storm water improvements
17 between cities, counties, and the state.

18 NEW SECTION. Sec. 2. The legislature finds that the increasing
19 population and continued development throughout the state have
20 increased the need for storm water control. Storm water impacts have
21 resulted in increased public health risks related to drinking water and
22 agricultural and seafood products; increased disruption of economic
23 activity, transportation facilities, and other public and private land
24 and facilities due to the lack of adequate flood control measures;
25 adverse affects on state fish populations; and contamination of
26 sediments.

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

31 More stringent regulatory requirements have increased the costs
32 that state and local governments must incur to deal with significant
33 sources of pollution such as storm water. The costs estimated to
34 properly maintain and construct storm water facilities far exceed
35 available revenues.

36 Therefore, it is the intent of the legislature to establish a
37 program to develop a state-wide coordination mechanism for the funding
38 of state highway-related storm water management and control projects

1 that will facilitate the completion of the state's most urgently needed
2 storm water projects in the most cost-effective manner.

3 NEW SECTION. **Sec. 3.** The department of transportation, in
4 cooperation with the department of ecology, cities, towns, counties,
5 environmental organizations, business organizations, Indian tribes, and
6 port districts, shall develop a storm water management funding and
7 implementation program to address state highway-related problems. As
8 part of the program, the department may provide grants to facilitate
9 the construction of the highest priority state and local storm water
10 management projects based on cost-effectiveness and contribution toward
11 improved water quality and reduced flooding in a watershed.

12 The program shall address, but is not limited to, the following
13 objectives: (1) Greater state-wide coordination of the construction of
14 storm water treatment facilities; (2) encouraging multijurisdictional
15 projects; (3) developing priorities and approaches for implementing
16 activities within watersheds; (4) identification and prioritization of
17 storm water retrofit programs; (5) evaluating methods to determine cost
18 benefits of proposed projects; (6) identifying ways to facilitate the
19 sharing of technical resources; (7) developing methods for monitoring
20 and evaluating activities carried out under the program; and (8)
21 identifying potential funding sources for continuation of the program.

22 NEW SECTION. **Sec. 4.** The department of transportation may provide
23 grants to implement state highway-related storm water control measures.
24 Cities, towns, counties, port districts, Indian tribes, and the
25 department of transportation are eligible to receive grants, on a
26 matching basis. A committee consisting of two representatives each
27 from the department of transportation, with one as chair, the
28 department of ecology, cities, and counties, and one representative
29 each from an environmental organization and a business organization,
30 shall oversee the grant program. The committee may add representatives
31 of other agencies, organizations, or interest groups to serve as
32 members of the committee or in an advisory capacity. In developing
33 project criteria, the committee shall identify the most urgent state
34 highway-related storm water management and control problems; develop
35 methods for applying priorities across watersheds; give added weight to
36 projects based on local contribution, multijurisdictional involvement,
37 and whether the project is a priority for a local storm water utility;

1 and determine the benefits of, and, if appropriate, provide incentives
2 for off-site placement of storm water facilities and out-of-kind
3 mitigation for storm water impact.

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

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

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

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

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

Passed the House March 7, 1996.

Passed the Senate March 7, 1996.

Approved by the Governor March 30, 1996.

Filed in Office of Secretary of State March 30, 1996.