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**SUBSTITUTE SENATE BILL 5645**

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**State of Washington**

**58th Legislature**

**2003 Regular Session**

**By** Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators Swecker, Doumit, Finkbeiner, Morton, Prentice, Johnson, Schmidt, Honeyford and Haugen)

READ FIRST TIME 03/05/03.

1           AN ACT Relating to implementing the federal permit requirements for  
2 municipal separate storm sewer system permits; adding new sections to  
3 chapter 90.48 RCW; creating new sections; providing an expiration date;  
4 and declaring an emergency.

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

6           NEW SECTION.   **Sec. 1.**   INTENT.   The legislature intends to:

7           (1) Provide direction to the department of ecology and to  
8 municipalities regarding the development and implementation of phase  
9 two of the federal clean water act's national pollutant discharge  
10 elimination system permit program in Washington;

11           (2) Recognize the eastern Washington stakeholder process for  
12 developing a storm water manual and direct the department of ecology to  
13 work within that process when implementing the phase two program in  
14 eastern Washington; and

15           (3) Establish a stakeholder process to assist the department of  
16 ecology in identifying and addressing issues related to developing and  
17 implementing the federal national pollutant discharge elimination  
18 system permit programs in western Washington and to advise and assist  
19 the department as it drafts these permits.

1        NEW SECTION.    **Sec. 2.**    STANDARDS FOR MUNICIPAL SEPARATE STORM SEWER  
2 SYSTEM PERMITS.    (1) In accordance with federal and state law, permits  
3 for municipal separate storm sewer systems shall require the  
4 development, implementation, and enforcement of storm water management  
5 programs designed to reduce the discharge of pollutants to the maximum  
6 extent practicable to satisfy the requirements of the federal clean  
7 water act.    Permits issued to municipalities subject to federal  
8 regulations implementing phase two of the national pollutant discharge  
9 elimination system permit program shall include the following minimum  
10 control measures:

- 11        (a) Public education and outreach on storm water impacts;
- 12        (b) Public involvement and participation;
- 13        (c) Illicit discharge detection and elimination;
- 14        (d) Construction site runoff control;
- 15        (e) Postconstruction storm water management in new development and  
16 redevelopment; and
- 17        (f) Pollution prevention and good housekeeping for municipal  
18 operations.

19        (2) For municipal separate storm sewer system permits, the  
20 reduction of pollutants to the maximum extent practicable means the  
21 technically sound and financially responsible, nonnumeric criteria  
22 applicable to all municipal storm water discharges through the  
23 implementation of best management practices.

24        NEW SECTION.    **Sec. 3.**    WESTERN WASHINGTON PERMIT DEVELOPMENT  
25 ADVISORY GROUP.    (1) The department shall establish a permit  
26 development advisory group for western Washington to advise and assist  
27 the department regarding permits for municipal separate storm sewer  
28 systems.    The permit development advisory group shall:

- 29        (a) Review and address the issues specified in section 5 of this  
30 act and any other issues regarding municipal separate storm sewer  
31 systems for which the department requests advice and assistance; and
- 32        (b) Advise and assist the department in drafting a permit or  
33 permits for municipal separate storm sewer systems in western  
34 Washington as required by federal regulations implementing phase two of  
35 the national pollutant discharge elimination system permit program  
36 under the federal clean water act (33 U.S.C. Sec. 1251 et seq.).

1 (2) The permit development advisory group may include up to  
2 eighteen members. The members of the permit development advisory group  
3 selected by the department shall include, but are not limited to, a  
4 representative or representatives of:

5 (a) Counties and cities that have obtained and are operating under  
6 a municipal separate storm sewer system permit issued under phase one  
7 of the federal national pollutant discharge elimination system permit  
8 program;

9 (b) Counties and cities that will be required to obtain a municipal  
10 separate storm sewer system permit issued under phase two of the  
11 federal national pollutant discharge elimination system permit program;

12 (c) State agencies with expertise and interest in storm water  
13 management issues, such as the Puget Sound action team and the  
14 departments of transportation, natural resources, and fish and  
15 wildlife;

16 (d) Ports;

17 (e) Realtors and developers;

18 (f) Business;

19 (g) Shellfish growers; and

20 (h) Environmental organizations.

21 (3) The department shall invite and encourage members of the  
22 legislature with interest in storm water management to participate in  
23 the permit development advisory group. Legislative members who do  
24 participate shall be reimbursed for travel expenses as provided in RCW  
25 44.04.120.

26 NEW SECTION. **Sec. 4.** EASTERN WASHINGTON PERMIT DEVELOPMENT. The  
27 department shall develop a municipal separate storm water system permit  
28 or permits that address the issues and needs of municipalities  
29 operating these systems in eastern Washington. The department shall  
30 use the advisory group it has established in eastern Washington to  
31 develop a storm water management manual to advise and assist the  
32 department regarding permits for municipal separate storm sewer systems  
33 to be issued in eastern Washington. The eastern Washington advisory  
34 group shall:

35 (1) Review and address the issues specified in section 5 of this  
36 act as they pertain to eastern Washington and any other issues

1 regarding municipal separate storm sewer systems for which the  
2 department requests advice and assistance; and

3 (2) Assist and advise the department in drafting a permit or  
4 permits for municipal separate storm sewer systems in eastern  
5 Washington as required by federal regulations implementing phase two of  
6 the national pollutant discharge elimination system permit program  
7 under the federal clean water act (33 U.S.C. Sec. 1251 et seq.).

8 NEW SECTION. **Sec. 5.** PERMIT DEVELOPMENT ISSUES. (1) No later  
9 than nine months after the effective date of this section, the permit  
10 development advisory group for western Washington established in  
11 section 3 of this act and the eastern Washington storm water management  
12 group identified in section 4 of this act shall review and make  
13 recommendations to the department regarding the development of permits  
14 for municipal separate storm sewer systems. Issues considered by these  
15 groups shall include the:

- 16 (a) Types of discharges being regulated under these permits;
- 17 (b) Areas being regulated by these permits under phases one and two  
18 of the federal national pollutant discharge elimination system permit  
19 program as they relate to municipal borders;
- 20 (c) Issuance of these permits on a watershed basis;
- 21 (d) Integration of permits and permit requirements for phase one  
22 and phase two of the federal national pollutant discharge elimination  
23 system permit program;
- 24 (e) Issuance of a separate permit or permits for phase two  
25 municipalities not adjacent to a phase one municipality and not  
26 interconnected with a separate storm sewer system of a municipality  
27 permitted under phase one;
- 28 (f) Application of these permits to ground water discharges;
- 29 (g) Level of effort required of municipalities to satisfy permit  
30 requirements regarding:
  - 31 (i) Public education and outreach;
  - 32 (ii) Public participation and public involvement;
  - 33 (iii) Illicit discharge detection and elimination;
  - 34 (iv) Construction site runoff control;
  - 35 (v) Postconstruction runoff control;
  - 36 (vi) Pollution prevention and good housekeeping;
  - 37 (vii) Implementation of applicable total maximum daily loads; and

1 (viii) Program evaluation and reporting;

2 (h) Protection for shellfish areas;

3 (i) Use of land use planning and existing land use plans and  
4 regulations as a best management practice for storm water management;  
5 and

6 (j) Potential funding sources for implementation of permit  
7 requirements.

8 (2) During the development of permits according to this chapter,  
9 the permit development advisory group for western Washington  
10 established in section 3 of this act and the eastern Washington  
11 advisory group identified in section 4 of this act shall advise and  
12 assist the department in developing a menu of best management practices  
13 as required under the federal clean water act (33 U.S.C. Sec. 1251 et  
14 seq.). These groups also shall review and provide advice and  
15 assistance on the draft permits as they are developed. In addition,  
16 these groups shall identify whether the elements of these permits are  
17 required by federal law, by state law, or by both federal and state  
18 law. These groups shall consider the costs and benefits associated  
19 with each permit element not required under federal law and make  
20 recommendations to the legislature regarding whether it is feasible,  
21 necessary, and cost-effective to exceed federal clean water act  
22 requirements for such elements.

23 NEW SECTION. **Sec. 6.** REPORTS TO THE LEGISLATURE. (1) The  
24 department shall submit a report regarding the recommendations of the  
25 western Washington permit development advisory group established in  
26 section 3 of this act and the eastern Washington advisory group  
27 identified in section 4 of this act to the appropriate committees of  
28 the legislature. In reporting on these groups' progress, the  
29 department shall identify the recommendations made by these groups,  
30 list the issues upon which the members of these groups were not able to  
31 reach agreement, and reflect the comments of all members of these  
32 groups. The department also shall identify any legislative  
33 recommendations from these groups or from the department based on the  
34 work of these groups.

35 (2) After the permits are developed according to the process  
36 specified in sections 3 and 4 of this act, the department shall submit  
37 a final report to the appropriate committees of the legislature

1 regarding these permits and the work of the advisory groups. The  
2 department also shall identify any legislative recommendations from  
3 these groups or from the department based on the work of these groups.

4 NEW SECTION. **Sec. 7.** Captions used in this act are not any part  
5 of the law.

6 NEW SECTION. **Sec. 8.** Sections 3 through 6 of this act expire June  
7 30, 2005.

8 NEW SECTION. **Sec. 9.** Sections 2 through 6 of this act are each  
9 added to chapter 90.48 RCW.

10 NEW SECTION. **Sec. 10.** If any provision of this act or its  
11 application to any person or circumstance is held invalid, the  
12 remainder of the act or the application of the provision to other  
13 persons or circumstances is not affected.

14 NEW SECTION. **Sec. 11.** This act is necessary for the immediate  
15 preservation of the public peace, health, or safety, or support of the  
16 state government and its existing public institutions, and takes effect  
17 immediately.

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