

---

**SUBSTITUTE HOUSE BILL 3181**

---

**State of Washington**

**61st Legislature**

**2010 Regular Session**

**By** House Capital Budget (originally sponsored by Representatives Ormsby, Hunter, Clibborn, Dunshee, Upthegrove, Rolfes, Wood, Williams, Springer, Dickerson, Lias, Sells, Roberts, Kagi, Cody, Green, Eddy, Nelson, White, Hunt, Orwall, Hudgins, Pettigrew, Darneille, Appleton, Chase, Pedersen, Kenney, Maxwell, Flannigan, Kirby, Carlyle, Goodman, McCoy, and Simpson)

READ FIRST TIME 02/23/10.

1       AN ACT Relating to the clean water act of 2010 funding cleanup of  
2 water pollution and other programs necessary for the health and well-  
3 being of Washington citizens through an increase in the tax on  
4 hazardous substances; amending RCW 82.21.030; adding new sections to  
5 chapter 90.48 RCW; adding a new section to chapter 46.68 RCW; adding a  
6 new section to chapter 90.71 RCW; creating new sections; providing an  
7 effective date; and declaring an emergency.

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

9       NEW SECTION. **Sec. 1.** This act may be known and cited as the clean  
10 water act of 2010.

11       NEW SECTION. **Sec. 2.** (1) The legislature finds that nonpoint  
12 water pollution and contaminated storm water runoff is a major problem  
13 in the state creating a significant burden on the rivers, aquifers,  
14 lakes, streams, and marine receiving waters across Washington.

15       (2) The legislature recognizes that the burden of nonpoint and  
16 storm water pollution is caused by both increased volumes of water  
17 runoff due to the expansion of impervious surfaces and the toxic  
18 substances that pollute the runoff. The burden of storm water and

1 nonpoint pollution from hazardous substances is difficult to offset  
2 because the source of pollution is not a single physical point, but  
3 occurs wherever the toxic substances are manufactured, used, or  
4 consumed.

5 (3) The legislature finds that the federal government and the state  
6 of Washington have identified control of pollutants in storm water  
7 runoff through national pollutant discharge elimination system phase I  
8 and II municipal storm water permits as a requirement for the state and  
9 local jurisdictions. Impacts from the polluted storm water may be  
10 prevented or controlled through retrofit projects for existing  
11 infrastructure as well as other means.

12 (4) The legislature finds that resources available to offset the  
13 direct burdens of storm water pollution by hazardous substances are  
14 insufficient to meet existing needs. Existing funding is raised  
15 largely by local governments and is disproportionately borne by fees  
16 levied on individuals and property owners.

17 (5) Finally, the legislature finds that increasing the tax on  
18 hazardous substances is necessary to fund programs that will offset the  
19 burdens that pollution places on the environment and the waters of the  
20 state.

21 **Sec. 3.** RCW 82.21.030 and 1989 c 2 s 10 are each amended to read  
22 as follows:

23 (1)(a) A tax is imposed on the privilege of possession of hazardous  
24 substances in this state. The rate of the tax (~~((shall be))~~) is seven-  
25 tenths of one percent multiplied by the wholesale value of the  
26 substance.

27 (b) Beginning May 1, 2010, an additional tax is imposed on the  
28 privilege of possession of hazardous substances in this state. The  
29 rate of the tax is equal to one and three-tenths percent multiplied by  
30 the wholesale value of the substance.

31 (2)(a) Moneys collected under (~~(this chapter shall)~~) subsection  
32 (1)(a) of this section must be deposited in the toxics control accounts  
33 under RCW 70.105D.070 and expended in accordance with the purposes  
34 stated therein.

35 (b) Moneys collected under subsection (1)(b) of this section must  
36 be deposited into the clean water legacy fund hereby created in the

1 custody of the state treasurer. The state treasurer must transfer the  
2 funds deposited into the clean water legacy fund as follows:

3 (i) For taxes collected through June 30, 2011, twenty percent must  
4 be deposited in the storm water account created in section 4 of this  
5 act to be used solely for the purposes of funding the items set forth  
6 in section 4(2)(a) of this act, two and forty-five one-hundredths  
7 percent must be deposited in the state oil spill prevention account,  
8 two and one-twentieth percent must be deposited into the Puget Sound  
9 recovery account to be used as required under section 6 of this act,  
10 two and one-twentieth percent must be deposited into the water quality  
11 action account to be used as required under section 7 of this act, five  
12 percent must be deposited into the motor vehicle account to be used as  
13 required under section 5 of this act, and the remainder must be  
14 deposited into the general fund.

15 (ii) For taxes collected between July 1, 2011, and June 30, 2013,  
16 twenty percent must be deposited into the storm water account created  
17 in section 4 of this act, one and four-fifths percent must be deposited  
18 in the state oil spill prevention account, two and two-fifths percent  
19 must be deposited into the Puget Sound recovery account to be used as  
20 required under section 6 of this act, two and two-fifths percent must  
21 be deposited in the water quality action account to be used as required  
22 under section 7 of this act, five percent must be deposited into the  
23 motor vehicle account to be used as required under section 5 of this  
24 act, and the remainder must be deposited into the general fund.

25 (iii) For taxes collected between July 1, 2013, and June 30, 2015,  
26 forty-five percent must be deposited into the storm water account  
27 created in section 4 of this act, one and four-fifths percent must be  
28 deposited in the state oil spill prevention account, four and one-half  
29 percent must be deposited into the Puget Sound recovery account to be  
30 used as required under section 6 of this act, four and two-fifths  
31 percent must be deposited in the water quality action account to be  
32 used as required under section 7 of this act, ten percent must be  
33 deposited into the motor vehicle account to be used as required under  
34 section 5 of this act, and the remainder must be deposited into the  
35 general fund.

36 (iv) For taxes collected on or after July 1, 2015, one and four-  
37 fifths percent must be deposited in the state oil spill prevention  
38 account, nine and one-half percent must be deposited into the Puget

1 Sound recovery account to be used as required under section 6 of this  
2 act, nine and one-half percent must be deposited in the water quality  
3 action account to be used as required under section 7 of this act, ten  
4 percent must be deposited into the motor vehicle account to be used as  
5 required under section 5 of this act, and the remainder must be  
6 deposited into the storm water account created in section 4 of this  
7 act.

8 (3) Chapter 82.32 RCW applies to the tax imposed in this chapter.  
9 The tax due dates, reporting periods, and return requirements  
10 applicable to chapter 82.04 RCW apply equally to the tax imposed in  
11 this chapter.

12 NEW SECTION. Sec. 4. A new section is added to chapter 90.48 RCW  
13 to read as follows:

14 (1) The storm water account is created in the state treasury.  
15 Receipts from the tax imposed under RCW 82.21.030(1)(b) must be  
16 deposited in the account as set forth in RCW 82.21.030. Moneys in the  
17 account are allocated to the department and may be spent only after  
18 appropriation. Expenditures from the account must be used on  
19 activities or projects that mitigate or prevent storm water pollution.

20 (2) After deducting the department's administrative costs of no  
21 more than four percent of the appropriations included in the omnibus  
22 operating and capital appropriations acts associated with administering  
23 a competitive grant process, moneys must be distributed annually based  
24 on the following allocation:

25 (a) Fifty percent of the remaining moneys must be allocated through  
26 the grant process to local governments covered by national pollutant  
27 discharge elimination system municipal phase I or phase II permits to  
28 fund local government projects or activities that mitigate or prevent  
29 contamination of storm water or the recontamination of receiving waters  
30 previously remediated under federal or state-approved activities. To  
31 be eligible, local governments must provide fifty percent of project or  
32 activity costs from other nonstate fund sources. Of the allocation in  
33 this subsection, seventy-five thousand dollars must be provided to each  
34 jurisdiction that is subject to the national pollutant discharge  
35 elimination system phase I or phase II requirements.

36 (b) Forty percent of the remaining moneys must be allocated through  
37 the grant process to local governments for retrofit projects that

1 address contamination of storm water, or projects that directly reduce  
2 toxic diesel emissions that result in air deposition of storm water  
3 pollutants. The moneys for retrofit projects must be prioritized for  
4 projects that utilize low-impact development retrofit strategies, but  
5 moneys may be awarded for other retrofit projects if the site does not  
6 lend itself to low-impact development techniques or other retrofit  
7 techniques that are shown to be more effective in terms of addressing  
8 water quality problems associated with the site.

9 (c) Ten percent of the remaining moneys must be allocated through  
10 either existing storm water grant programs or the grant process to  
11 projects under (a) or (b) of this subsection and to the highest  
12 priority projects based upon ecological and water quality benefits  
13 determined by the department. For projects qualifying under this  
14 subsection, moneys may be allocated to meet the matching requirements  
15 under (a) of this subsection to jurisdictions that demonstrate economic  
16 hardship in meeting the matching requirement.

17 (3) In consultation with stakeholders, the department must develop  
18 criteria for administering the program and ranking projects for funding  
19 based on water quality benefits. In developing criteria applicable to  
20 projects in the Puget Sound basin, the department must consult with the  
21 Puget Sound partnership. Consistent with RCW 90.71.340, when making  
22 grants under this section that contribute to Puget Sound protection and  
23 recovery, the department must consult with the Puget Sound partnership  
24 to ensure that grants are for projects and activities that are  
25 consistent with the prioritization of the 2020 action agenda. All  
26 activities or capital projects approved for funding must demonstrate  
27 the potential to achieve clear ecological or water quality benefits.  
28 The department must endeavor to distribute the moneys within each  
29 geographic region of the state in proportion to the severity of impacts  
30 to waterways from storm water pollution.

31 (4) The department must initiate the grant application process by  
32 July 1, 2010.

33 (5) By December 1, 2013, and every two years thereafter, the  
34 department must report to the governor and the appropriate committees  
35 of the legislature on the progress of the program and the suitability  
36 of the percentage allocations specified in subsection (2)(a) through  
37 (c) of this section.

1 (6) The definitions in this section apply throughout this section  
2 unless the context clearly requires otherwise.

3 (a) "Department" means the department of ecology.

4 (b) "Low-impact development" means a storm water management and  
5 land use strategy applied, where feasible, at the parcel and  
6 subdivision, or drainage area, level that emphasizes conservation and  
7 use of on-site natural features integrated with engineered, small-scale  
8 hydrologic controls to more closely mimic predevelopment hydrologic  
9 functions.

10 (c) "Retrofit" means the renovation of existing development to  
11 improve or eliminate storm water problems associated with the site or  
12 drainage area.

13 NEW SECTION. **Sec. 5.** A new section is added to chapter 46.68 RCW  
14 to read as follows:

15 (1) The department of transportation must use taxes deposited in  
16 the motor vehicle account under RCW 82.21.030(2)(b) to fund activities  
17 or projects that address contamination of storm water related to  
18 transportation infrastructure through the implementation of the  
19 department of transportation's national pollutant discharge elimination  
20 system programs permitted under chapter 90.48 RCW. Activities and  
21 projects that may be supported with these funds include, but are not  
22 limited to: Construction, operation, inspection, monitoring, and  
23 maintenance of storm water facilities; purchase, operation, and  
24 maintenance of vector trucks and vector decant facilities; purchase,  
25 maintenance, and operation of storm water management inventory,  
26 mapping, and information systems; storm water pollution prevention plan  
27 development and implementation; and storm water training. For the  
28 purposes of this section, "storm water facilities" includes, but is not  
29 limited to, ponds, biofiltration swales, storm water treatment tanks,  
30 detention vaults, oil water separators, dry wells, catch basins, and  
31 filters.

32 (2) The taxes deposited in the motor vehicle account under RCW  
33 82.21.030(2)(b) may not be used for construction of storm water  
34 facilities associated with new road construction. For purposes of this  
35 section, "new roads" includes roads that are new alignments. Roads  
36 that add to or replace an existing roadway are not "new roads."

1 (3) Beginning January 1, 2011, the department of transportation  
2 must deliver a biennial report describing the use of the funds to the  
3 governor and the appropriate legislative committees.

4 NEW SECTION. **Sec. 6.** A new section is added to chapter 90.71 RCW  
5 to read as follows:

6 Consistent with RCW 90.71.340, the Puget Sound partnership must use  
7 taxes deposited in the Puget Sound recovery account as provided under  
8 RCW 82.21.030(2)(b) to fund activities or capital projects that are  
9 consistent with the prioritization of the 2020 action agenda.

10 NEW SECTION. **Sec. 7.** A new section is added to chapter 90.48 RCW  
11 to read as follows:

12 (1) The water quality action account is created in the state  
13 treasury. Receipts from the tax imposed under RCW 82.21.030(1)(b) must  
14 be deposited in the account as provided in RCW 82.21.030. Moneys in  
15 the water quality action account are allocated to the department of  
16 ecology and may be spent only after appropriation. The account may not  
17 be used to fund specific state activities that are required to be  
18 funded through fees paid by state and federal water quality permittees.

19 (2) Moneys in the water quality action account may be used only for  
20 state responsibilities to carry out the purposes of this chapter to:  
21 Prevent pollution of streams, rivers, aquifers, marine receiving  
22 waters, and drinking water; prevent beach and shellfish bed closures  
23 due to polluted surface runoff; and protect fish and wildlife habitat  
24 from polluted surface runoff. More specifically, moneys may be used  
25 for, but not limited to, the following purposes:

26 (a) Creation and maintenance of a storm water technology center to  
27 assist businesses and governmental entities by developing resources for  
28 testing, monitoring, adopting, and implementing new clean water  
29 practices and technologies;

30 (b) Improved storm water research, data management, and monitoring;

31 (c) Development of clean water guidance and best management  
32 practices for nonpermitted surface runoff activities; and

33 (d) Improved source control actions, such as collaboration with  
34 local governments to provide local source control inspectors.

1        NEW SECTION.    **Sec. 8.**    If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected.

5        NEW SECTION.    **Sec. 9.**    This act is necessary for the immediate  
6 preservation of the public peace, health, or safety, or support of the  
7 state government and its existing public institutions, and takes effect  
8 May 1, 2010.

--- END ---