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SENATE BILL 5435

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State of Washington

63rd Legislature

2013 Regular Session

By Senators Cleveland and Rivers

Read first time 01/30/13. Referred to Committee on Energy, Environment & Telecommunications.

1 AN ACT Relating to the creation of a storm water compliance pilot  
2 project; and adding a new section to chapter 90.48 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 90.48 RCW  
5 to read as follows:

6 (1) The department shall conduct a municipal storm water control  
7 pilot project within its existing authority to issue alternative  
8 compliance plans to evaluate the net environmental effects of an  
9 alternative approach to municipal storm water management and determine  
10 if alternative approaches can satisfy the water quality requirements of  
11 the state and federal clean water acts and have merit for greater  
12 statewide application. The pilot project must be designed to meet the  
13 following objectives:

14 (a) Add to the existing best available science base regarding storm  
15 water management; and

16 (b) Address the existing paradoxical roadblock to accomplishing  
17 superior environmental outcomes at lower costs created by an  
18 interpretation of the clean water act that limits the allowance of

1 alternative compliance plans to instances when science supports the  
2 desired outcome, but that prohibits the alternative projects required  
3 to collect the necessary scientific data from being implemented.

4 (2) In conducting the pilot project required by this section, the  
5 department must design an alternative approach to managing municipal  
6 storm water that will serve in lieu of a standard phase I municipal  
7 storm water permit as required by this chapter. The basis of the  
8 alternative approach must include the premise that new development in  
9 the pilot project area manages storm water to the existing condition  
10 with the pilot project partner agreeing to mitigate the impacts of new  
11 development and redevelopment projects through capital improvements.

12 (3) The terms negotiated for the pilot project serve as the only  
13 required municipal storm water permitting for the participants to the  
14 pilot project and is ratified and approved by the legislature as a  
15 valid permit for compliance with this chapter.

16 (4) The department must work closely in developing the alternative  
17 approach with the pilot partner. That partner must be chosen by the  
18 department and must be a county subject to phase I storm water  
19 permitting that has, prior to January 1, 2010, received a notice of  
20 violation for noncompliance with municipal storm water permitting. The  
21 department is excused of any obligations under this section if no  
22 eligible pilot partner is willing to participate.

23 (5) The department and the other participants to the pilot project  
24 are responsible for monitoring the effects on regional water quality of  
25 the alternative compliance mechanisms comprising the pilot project.  
26 The metrics and scope of the monitoring must be developed by the  
27 department in a manner that best delivers information relevant to the  
28 objectives of the pilot project.

29 (6) At the conclusion of the pilot project, the department must  
30 deliver a report to the legislature consistent with RCW 43.01.036 that  
31 summarizes the data collected under subsection (5) of this section and  
32 makes recommendations as to whether the alternative compliance approach  
33 had a beneficial effect on water quality in the pilot region, whether  
34 a similar alternative compliance approach has applicability in other  
35 jurisdictions, and whether the term of the pilot project should be  
36 extended.

37 (7) This section is to be implemented under the existing authority

1 of the department to issue alternative compliance plans for storm water  
2 management. Nothing in this section conveys new or additional  
3 authority on the department.

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