
SENATE BILL 5990

State of Washington

63rd Legislature

2014 Regular Session

By Senator Ericksen

Read first time 01/13/14. Referred to Committee on Energy, Environment & Telecommunications.

1 AN ACT Relating to funding for programs under the environmental
2 legacy stewardship account; and reenacting and amending RCW 70.105D.070
3 and 70.105D.170.

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

5 **Sec. 1.** RCW 70.105D.070 and 2013 2nd sp.s. c 19 s 7033 and 2013
6 2nd sp.s. c 4 s 992 are each reenacted and amended to read as follows:

7 (1) The state toxics control account and the local toxics control
8 account are hereby created in the state treasury.

9 (2)(a) Moneys collected under RCW 82.21.030 must be deposited as
10 follows: Fifty-six percent to the state toxics control account under
11 subsection (3) of this section and forty-four percent to the local
12 toxics control account under subsection (4) of this section. When the
13 cumulative amount of deposits made to the state and local toxics
14 control accounts under this section reaches the limit during a fiscal
15 year as established in (b) of this subsection, the remainder of the
16 moneys collected under RCW 82.21.030 during that fiscal year must be
17 deposited into the environmental legacy stewardship account created in
18 RCW 70.105D.170.

1 (b) The limit on distributions of moneys collected under RCW
2 82.21.030 to the state and local toxics control accounts for the fiscal
3 year beginning July 1, 2013, is one hundred forty million dollars.

4 (c) In addition to the funds required under (a) of this subsection,
5 the following moneys must be deposited into the state toxics control
6 account: (i) The costs of remedial actions recovered under this
7 chapter or chapter 70.105A RCW; (ii) penalties collected or recovered
8 under this chapter; and (iii) any other money appropriated or
9 transferred to the account by the legislature.

10 (3) Moneys in the state toxics control account must be used only to
11 carry out the purposes of this chapter, including but not limited to
12 the following activities:

13 (a) The state's responsibility for hazardous waste planning,
14 management, regulation, enforcement, technical assistance, and public
15 education required under chapter 70.105 RCW;

16 (b) The state's responsibility for solid waste planning,
17 management, regulation, enforcement, technical assistance, and public
18 education required under chapter 70.95 RCW;

19 (c) The hazardous waste clean-up program required under this
20 chapter;

21 (d) State matching funds required under federal cleanup law;

22 (e) Financial assistance for local programs in accordance with
23 chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

24 ~~((State government programs for the safe reduction, recycling,
25 or disposal of paint and hazardous wastes from households, small
26 businesses, and agriculture;~~

27 ~~(g))~~ Oil and hazardous materials spill prevention, preparedness,
28 training, and response activities;

29 ~~((h))~~ (g) Water and environmental health protection and
30 monitoring programs;

31 ~~((i))~~ (h) Programs authorized under chapter 70.146 RCW;

32 ~~((j) A public participation program;~~

33 ~~(k))~~ (i) Public funding to assist potentially liable persons to
34 pay for the costs of remedial action in compliance with clean-up
35 standards under RCW 70.105D.030(2)(e) but only when the amount and
36 terms of such funding are established under a settlement agreement
37 under RCW 70.105D.040(4) and when the director has found that the

1 funding will achieve both: (i) A substantially more expeditious or
2 enhanced cleanup than would otherwise occur; and (ii) the prevention or
3 mitigation of unfair economic hardship;

4 ~~((l) Development and demonstration of alternative management
5 technologies designed to carry out the hazardous waste management
6 priorities of RCW 70.105.150;~~

7 ~~(m))~~ (j) State agriculture and health programs for the safe use,
8 reduction, recycling, or disposal of pesticides;

9 ~~((n))~~ (k) Storm water pollution control projects and activities
10 that protect or preserve existing remedial actions or prevent hazardous
11 clean-up sites;

12 ~~((o))~~ (l) Funding requirements to maintain receipt of federal
13 funds under the federal solid waste disposal act (42 U.S.C. Sec. 6901
14 et seq.);

15 ~~((p) Air quality programs and actions for reducing public exposure
16 to toxic air pollution;~~

17 ~~(q))~~ (m) Public funding to assist prospective purchasers to pay
18 for the costs of remedial action in compliance with clean-up standards
19 under RCW 70.105D.030(2)(e) if:

20 (i) The facility is located within a redevelopment opportunity zone
21 designated under RCW 70.105D.150;

22 (ii) The amount and terms of the funding are established under a
23 settlement agreement under RCW 70.105D.040(5); and

24 (iii) The director has found the funding meets any additional
25 criteria established in rule by the department, will achieve a
26 substantially more expeditious or enhanced cleanup than would otherwise
27 occur, and will provide a public benefit in addition to cleanup
28 commensurate with the scope of the public funding;

29 ~~((r) Petroleum based plastic or expanded polystyrene foam debris
30 cleanup activities in fresh or marine waters;~~

31 ~~(s))~~ (n) Appropriations to the local toxics control account or the
32 environmental legacy stewardship account created in RCW 70.105D.170, if
33 the legislature determines that priorities for spending exceed
34 available funds in those accounts;

35 ~~((t))~~ (o) During the 2013-2015 fiscal biennium, the department of
36 ecology's water quality, shorelands, environmental assessment,
37 administration, and air quality programs;

1 ~~((u))~~ (p) During the 2013-2015 fiscal biennium, actions at the
2 state conservation commission to improve water quality for shellfish;
3 ~~((and~~
4 ~~(v))~~ (q) During the 2013-2015 fiscal biennium, actions at the
5 University of Washington for reducing ocean acidification;
6 ~~((w))~~ (r) For the 2013-2015 fiscal biennium, moneys in the state
7 toxics control account may be spent on projects in section 3159,
8 chapter 19, Laws of 2013 2nd sp. sess. and for transfer to the local
9 toxics control account; and
10 ~~((x))~~ (s) For the 2013-2015 fiscal biennium, moneys in the state
11 toxics control account may be transferred to the radioactive mixed
12 waste account.
13 (4)(a) The department shall use moneys deposited in the local
14 toxics control account for grants or loans to local governments for the
15 following purposes in descending order of priority:
16 (i) Extended grant agreements entered into under ~~((e))(e))~~
17 (e)(i) of this subsection;
18 (ii) Remedial actions, including planning for adaptive reuse of
19 properties as provided for under ~~((e))(e))~~ (e)(iv) of this
20 subsection. The department must prioritize funding of remedial actions
21 at:
22 (A) Facilities on the department's hazardous sites list with a high
23 hazard ranking for which there is an approved remedial action work plan
24 or an equivalent document under federal cleanup law;
25 (B) Brownfield properties within a redevelopment opportunity zone
26 if the local government is a prospective purchaser of the property and
27 there is a department-approved remedial action work plan or equivalent
28 document under the federal cleanup law;
29 (iii) Storm water pollution source projects that: (A) Work in
30 conjunction with a remedial action; (B) protect completed remedial
31 actions against recontamination; or (C) prevent hazardous clean-up
32 sites;
33 (iv) Hazardous waste plans and programs under chapter 70.105 RCW;
34 (v) Solid waste plans and programs under chapters 70.95, 70.95C,
35 70.95I, and 70.105 RCW; and
36 (vi) ~~((Petroleum-based plastic or expanded polystyrene foam debris~~
37 ~~cleanup activities in fresh or marine waters; and~~

1 ~~(vii))~~) Appropriations to the state toxics control account or the
2 environmental legacy stewardship account created in RCW 70.105D.170, if
3 the legislature determines that priorities for spending exceed
4 available funds in those accounts.

5 (b) Funds for plans and programs must be allocated consistent with
6 the priorities and matching requirements established in chapters
7 70.105, 70.95C, 70.95I, and 70.95 RCW.

8 (c) During the 2013-2015 fiscal biennium, the local toxics control
9 account may also be used for local government storm water planning and
10 implementation activities.

11 (d) During the 2013-2015 fiscal biennium, the legislature may
12 transfer from the local toxics control account to the state general
13 fund, such amounts as reflect the excess fund balance in the account.

14 (e) To expedite cleanups throughout the state, the department may
15 use the following strategies when providing grants to local governments
16 under this subsection:

17 (i) Enter into an extended grant agreement with a local government
18 conducting remedial actions at a facility where those actions extend
19 over multiple biennia and the total eligible cost of those actions
20 exceeds twenty million dollars. The agreement is subject to the
21 following limitations:

22 (A) The initial duration of such an agreement may not exceed ten
23 years. The department may extend the duration of such an agreement
24 upon finding substantial progress has been made on remedial actions at
25 the facility;

26 (B) Extended grant agreements may not exceed fifty percent of the
27 total eligible remedial action costs at the facility; and

28 (C) The department may not allocate future funding to an extended
29 grant agreement unless the local government has demonstrated to the
30 department that funds awarded under the agreement during the previous
31 biennium have been substantially expended or contracts have been
32 entered into to substantially expend the funds;

33 (ii) Enter into a grant agreement with a local government
34 conducting a remedial action that provides for periodic reimbursement
35 of remedial action costs as they are incurred as established in the
36 agreement;

37 (iii) Enter into a grant agreement with a local government prior to
38 it acquiring a property or obtaining necessary access to conduct

1 remedial actions, provided the agreement is conditioned upon the local
2 government acquiring the property or obtaining the access in accordance
3 with a schedule specified in the agreement;

4 (iv) Provide integrated planning grants to local governments to
5 fund studies necessary to facilitate remedial actions at brownfield
6 properties and adaptive reuse of properties following remediation.
7 Eligible activities include, but are not limited to: Environmental
8 site assessments; remedial investigations; health assessments;
9 feasibility studies; site planning; community involvement; land use and
10 regulatory analyses; building and infrastructure assessments; economic
11 and fiscal analyses; and any environmental analyses under chapter
12 43.21C RCW;

13 (v) Provide grants to local governments for remedial actions
14 related to areawide groundwater contamination. To receive the funding,
15 the local government does not need to be a potentially liable person or
16 be required to seek reimbursement of grant funds from a potentially
17 liable person;

18 (vi) The director may alter grant matching requirements to create
19 incentives for local governments to expedite cleanups when one of the
20 following conditions exists:

21 (A) Funding would prevent or mitigate unfair economic hardship
22 imposed by the clean-up liability;

23 (B) Funding would create new substantial economic development,
24 public recreational opportunities, or habitat restoration opportunities
25 that would not otherwise occur; or

26 (C) Funding would create an opportunity for acquisition and
27 redevelopment of brownfield property under RCW 70.105D.040(5) that
28 would not otherwise occur;

29 (vii) When pending grant applications under ~~((e)-(e))~~ (e)(iv)
30 and (v) of this subsection (4) exceed the amount of funds available,
31 designated redevelopment opportunity zones must receive priority for
32 distribution of available funds.

33 ~~((d)-(f))~~ (f) To expedite multiparty clean-up efforts, the
34 department may purchase remedial action cost-cap insurance. For the
35 2013-2015 fiscal biennium, moneys in the local toxics control account
36 may be spent on projects in sections 3024, 3035, 3036, and 3059,
37 chapter 19, Laws of 2013 2nd sp. sess.

1 (5) Except for unanticipated receipts under RCW 43.79.260 through
2 43.79.282, moneys in the state and local toxics control accounts may be
3 spent only after appropriation by statute.

4 (6) No moneys deposited into either the state or local toxics
5 control account may be used for: Natural disasters where there is no
6 hazardous substance contamination; high performance buildings; solid
7 waste incinerator facility feasibility studies, construction,
8 maintenance, or operation; or after January 1, 2010, for projects
9 designed to address the restoration of Puget Sound, funded in a
10 competitive grant process, that are in conflict with the action agenda
11 developed by the Puget Sound partnership under RCW 90.71.310. However,
12 this subsection does not prevent an appropriation from the state toxics
13 control account to the department of revenue to enforce compliance with
14 the hazardous substance tax imposed in chapter 82.21 RCW.

15 (7) (~~Except during the 2011-2013 fiscal biennium,~~) One percent of
16 the moneys collected under RCW 82.21.030 shall be allocated only for
17 public participation grants to persons who may be adversely affected by
18 a release or threatened release of a hazardous substance and to not-
19 for-profit public interest organizations. The primary purpose of these
20 grants is to facilitate the participation by persons and organizations
21 in the investigation and remedying of releases or threatened releases
22 of hazardous substances and to implement the state's solid and
23 hazardous waste management priorities. No grant may exceed sixty
24 thousand dollars. Grants may be renewed annually. Moneys appropriated
25 for public participation that are not expended at the close of any
26 biennium revert to the state toxics control account.

27 (8) The department shall adopt rules for grant or loan issuance and
28 performance. To accelerate both remedial action and economic recovery,
29 the department may expedite the adoption of rules necessary to
30 implement chapter 1, Laws of 2013 2nd sp. sess. using the expedited
31 procedures in RCW 34.05.353. The department shall initiate the award
32 of financial assistance by August 1, 2013. To ensure the adoption of
33 rules will not delay financial assistance, the department may
34 administer the award of financial assistance through interpretive
35 guidance pending the adoption of rules through July 1, 2014.

36 (9) Except as provided under subsection (3)(k) and (q) of this
37 section, nothing in chapter 1, Laws of 2013 2nd sp. sess. (~~effects~~

1 ~~{affects}~~) affects the ability of a potentially liable person to
2 receive public funding.

3 (10) During the 2013-2015 fiscal biennium the local toxics control
4 account may also be used for the centennial clean water program and for
5 storm water grants.

6 **Sec. 2.** RCW 70.105D.170 and 2013 2nd sp.s. c 28 s 1, 2013 2nd
7 sp.s. c 19 s 7042, and 2013 2nd sp.s. c 4 s 991 are each reenacted and
8 amended to read as follows:

9 (1) The environmental legacy stewardship account is created in the
10 state treasury. Beginning July 1, 2013, and every fiscal year
11 thereafter, the annual amount received from the tax imposed by RCW
12 82.21.030 that exceeds one hundred forty million dollars must be
13 deposited into the environmental legacy stewardship account. The state
14 treasurer may make periodic deposits into the environmental legacy
15 stewardship account based on forecasted revenue. Moneys in the account
16 may only be spent after appropriation.

17 (2) Moneys in the environmental legacy stewardship account may be
18 spent on:

19 (a) Grants or loans to local governments for performance and
20 outcome-based projects, model remedies, demonstration projects,
21 procedures, contracts, and project management and oversight that result
22 in significant reductions in the time to complete compared to baseline
23 averages;

24 (b) Purposes authorized under RCW 70.105D.070 (3) and (4);

25 (c) Grants or loans awarded through a competitive grant program
26 administered by the department to fund design and construction of low-
27 impact development retrofit projects and other high quality projects
28 that reduce storm water pollution from existing infrastructure. The
29 competitive grant program must apply criteria to review, rank, and
30 prioritize projects for funding based on their water quality benefits,
31 ecological benefits, and effectiveness at reducing environmental
32 degradation; (~~and~~)

33 (d) Cleanup and disposal of hazardous substances from abandoned or
34 derelict vessels, defined for the purposes of this section as vessels
35 that have little or no value and either have no identified owner or
36 have an identified owner lacking financial resources to clean up and

1 dispose of the vessel, that pose a threat to human health or the
2 environment;

3 (e) A public participation program;

4 (f) Petroleum-based plastic or expanded polystyrene foam debris
5 cleanup activities in fresh or marine waters;

6 (g) State government programs for the safe reduction, recycling, or
7 disposal of paint and hazardous wastes from households, small
8 businesses, and agriculture;

9 (h) Development and demonstration of alternative management
10 technologies designed to carry out the hazardous waste management
11 priorities of RCW 70.105.150; and

12 (i) Air quality programs and actions for reducing public exposure
13 to toxic air pollution.

14 (3) Except as provided under RCW 70.105D.070(3) (k) and (q),
15 nothing in chapter 1, Laws of 2013 2nd sp. sess. expands the ability of
16 a potentially liable person to receive public funding.

17 (4) Moneys in the environmental legacy stewardship account may also
18 be used as follows:

19 (a) During the 2013-2015 fiscal biennia, shoreline update technical
20 assistance and for local government shoreline master program update
21 grants;

22 (b) During the 2013-2015 fiscal biennium, solid and hazardous waste
23 compliance at the department of corrections;

24 (c) During the 2013-2015 fiscal biennium, activities at the
25 department of fish and wildlife concerning water quality monitoring,
26 hatchery water quality regulatory compliance, and technical assistance
27 to local governments on growth management and shoreline management;

28 (d) During the 2013-2015 fiscal biennium, forest practices
29 regulation and aquatic land investigation and cleanup activities at the
30 department of natural resources.

31 (5) For the 2013-2015 fiscal biennium, moneys in the environmental
32 legacy stewardship account may be transferred to the local toxics
33 control account.

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