
SENATE BILL 5441

State of Washington

63rd Legislature

2013 Regular Session

By Senator Rivers

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

1 AN ACT Relating to prioritizing state investments in storm water
2 control; amending RCW 90.48.290 and 90.48.285; reenacting and amending
3 RCW 70.105D.070; and adding a new section to chapter 43.21A RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.21A RCW
6 to read as follows:

7 The department must, when providing grants, loans, or other
8 financial assistance to a unit of local government intended to aid in
9 the management, treatment, or control of storm water runoff, give
10 priority funding to activities or projects that are required by the
11 applicable operational state municipal storm water permit approved by
12 the department under chapter 90.54 RCW. The department may provide
13 funding for other storm water related projects only if additional
14 resources are available to the department after all requirements
15 mandated by the applicable current state municipal storm water permits
16 have been funded.

17 **Sec. 2.** RCW 90.48.290 and 1987 c 109 s 145 are each amended to
18 read as follows:

1 (1) The department is authorized to make and administer grants
2 consistent with this section within appropriations authorized by the
3 legislature to any municipal or public corporation, or political
4 subdivision within the state for the purpose of aiding in the
5 construction of water pollution control projects necessary to prevent
6 the discharge of untreated or inadequately treated sewage or other
7 waste into the waters of the state including, but not limited to,
8 projects for the control of storm or surface waters which will provide
9 for the removal of waste or polluting materials (~~therefrom~~).

10 (2) Grants (~~so~~) made by the department under this section shall
11 be subject to the following limitations:

12 (~~(1)~~) (a) No grant shall be made in an amount which exceeds the
13 recipient's contribution to the estimated cost of the project(~~(+~~
14 ~~PROVIDED, That~~)). However, the following shall be considered a part of
15 the recipient's contribution:

16 (~~(a)~~) (i) Any grant received by the recipient from the federal
17 government pursuant to section 8(f) of the Federal Water Pollution
18 Control Act (33 U.S.C. 466) for the project;

19 (~~(b)~~) (ii) Any expenditure which is made by any municipal or
20 public corporation, or political subdivision within the state as a part
21 of a joint effort with the recipient to carry out the project and which
22 has not been used as a matching contribution for another grant made
23 pursuant to this chapter(~~(7)~~); and

24 (~~(c)~~) (iii) Any expenditure for the project made by the recipient
25 out of moneys advanced by the department from a revolving fund and
26 repayable to said fund.

27 (~~(2)~~) (b) No grant shall be made for any project which does not
28 qualify for and receive a grant of federal funds under the provisions
29 of the federal water pollution control act (~~as now or hereafter~~
30 ~~amended: PROVIDED, That~~)). However, this restriction shall not apply
31 to state grants made in any biennium over and above the amount of such
32 grants required to match all federal funds allocated to the state for
33 such biennium.

34 (~~(3)~~) (c) No grant shall be made to any municipal or public
35 corporation, or political subdivision for any project located within a
36 drainage basin unless the department shall have previously adopted a
37 comprehensive water pollution control and abatement plan and unless the
38 project is found by the department to conform with such basin

1 comprehensive plan(~~(+PROVIDED, That)~~). However, the requirement for
2 a project to conform to a comprehensive water pollution control and
3 abatement plan may be waived by the department for any grant
4 application filed with the department prior to July 1, 1974, in those
5 situations where the department finds the public interest would be
6 served better by approval of any grant application made prior to
7 adoption of such plan than by its denial.

8 ~~((+4))~~ (d) Recipients of grants shall meet such qualifications and
9 follow such procedures in applying for grants as shall be established
10 by the department.

11 ~~((+5))~~ (e) Grants may be made to reimburse recipients for
12 expenditures made after July 1, 1967 for projects which meet the
13 requirements of this section and were commenced after the recipient had
14 filed a grant application with the department.

15 (3) Grants made by the department to address the management,
16 treatment, or control of storm water runoff must be prioritized in a
17 manner that is consistent with section 1 of this act.

18 **Sec. 3.** RCW 90.48.285 and 2005 c 469 s 4 are each amended to read
19 as follows:

20 (1) The department is authorized to enter into contracts with any
21 municipal or public corporation or political subdivision within the
22 state for the purpose of assisting such agencies to finance the design
23 and construction of water pollution control projects, whether procured
24 through chapter 39.10 or 70.150 RCW, or otherwise, that are necessary
25 to prevent the discharge of untreated or inadequately treated sewage or
26 other waste into the waters of the state, including but not limited to,
27 systems for the control of storm or surface waters which will provide
28 for the removal of waste or polluting materials in a manner conforming
29 to the comprehensive plan of water pollution control and abatement
30 proposed by the agencies and approved by the department.

31 (2) Any such contract may provide for(~~(+)~~) the payment by the
32 department to a municipal or public corporation or political
33 subdivision on a monthly, quarterly, or annual basis of varying amounts
34 of moneys as advances which shall be repayable by said municipal or
35 public corporation, or political subdivision under conditions
36 determined by the department.

1 (3) Contracts made by the department under this section shall be
2 subject to the following limitations:

3 ((+1)) (a) No contract shall be made unless the department shall
4 find that the project cannot be financed at reasonable cost or within
5 statutory limitations by the borrower without the making of such
6 contract.

7 ((+2)) (b) No contract shall be made with any public or municipal
8 corporation or political subdivision to assist in the financing of any
9 project located within a sewage drainage basin for which the department
10 shall have previously adopted a comprehensive water pollution control
11 and abatement plan unless the project is found by the department to
12 conform with the basin comprehensive plan.

13 ((+3)) (c) The department shall determine the interest rate, not
14 to exceed ten percent per annum, which such advances shall bear.

15 ((+4)) (d) The department shall provide such reasonable terms and
16 conditions of repayment of advances as it may determine.

17 ((+5)) (e) The total outstanding amount which the department may
18 at any time be obligated to pay under all outstanding contracts made
19 pursuant to this section shall not exceed the moneys available for such
20 payment.

21 ((+6)) (f) Municipal or public corporations or political
22 subdivisions shall meet such qualifications and follow such procedures
23 in applying for contract assistance as shall be established by the
24 department.

25 (4) In making such contracts the department shall give priority to
26 projects ~~((which))~~ that:

27 (a) Will provide relief from actual or potential public health
28 hazards or water pollution conditions and which provide substantial
29 capacity beyond present requirements to meet anticipated future demand;
30 and

31 (b) Are consistent with the prioritization policy outlined in
32 section 1 of this act.

33 **Sec. 4.** RCW 70.105D.070 and 2012 2nd sp.s. c 7 s 920 and 2012 2nd
34 sp.s. c 2 s 6005 are each reenacted and amended to read as follows:

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

1 (2) The following moneys shall be deposited into the state toxics
2 control account: (a) Those revenues which are raised by the tax
3 imposed under RCW 82.21.030 and which are attributable to that portion
4 of the rate equal to thirty-three one-hundredths of one percent; (b)
5 the costs of remedial actions recovered under this chapter or chapter
6 70.105A RCW; (c) penalties collected or recovered under this chapter;
7 and (d) any other money appropriated or transferred to the account by
8 the legislature. Moneys in the account may be used only to carry out
9 the purposes of this chapter, including but not limited to the
10 following activities:

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

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

17 (iii) The hazardous waste cleanup program required under this
18 chapter;

19 (iv) State matching funds required under the federal cleanup law;

20 (v) Financial assistance for local programs in accordance with
21 chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

22 (vi) State government programs for the safe reduction, recycling,
23 or disposal of hazardous wastes from households, small businesses, and
24 agriculture;

25 (vii) Hazardous materials emergency response training;

26 (viii) Water and environmental health protection and monitoring
27 programs;

28 (ix) Programs authorized under chapter 70.146 RCW;

29 (x) A public participation program, including regional citizen
30 advisory committees;

31 (xi) Public funding to assist potentially liable persons to pay for
32 the costs of remedial action in compliance with cleanup standards under
33 RCW 70.105D.030(2)(e) but only when the amount and terms of such
34 funding are established under a settlement agreement under RCW
35 70.105D.040(4) and when the director has found that the funding will
36 achieve both (A) a substantially more expeditious or enhanced cleanup
37 than would otherwise occur, and (B) the prevention or mitigation of
38 unfair economic hardship;

1 (xii) Development and demonstration of alternative management
2 technologies designed to carry out the hazardous waste management
3 priorities of RCW 70.105.150;

4 (xiii) During the 2009-2011 and 2011-2013 fiscal biennia, shoreline
5 update technical assistance;

6 (xiv) During the 2009-2011 fiscal biennium, multijurisdictional
7 permitting teams;

8 (xv) During the 2011-2013 fiscal biennium, actions for reducing
9 public exposure to toxic air pollution, and actions taken through the
10 family forest fish passage program to correct barriers to fish passage
11 on privately owned small forest lands; and

12 (xvi) During the 2011-2013 fiscal biennium, the department of
13 ecology's water quality, shorelands and environmental assessment,
14 hazardous waste, waste to resources, nuclear waste, and air quality
15 programs.

16 (3) The following moneys shall be deposited into the local toxics
17 control account: Those revenues which are raised by the tax imposed
18 under RCW 82.21.030 and which are attributable to that portion of the
19 rate equal to thirty-seven one-hundredths of one percent.

20 (a) Moneys deposited in the local toxics control account shall be
21 used by the department for grants or loans to local governments for the
22 following purposes in descending order of priority:

23 (i) Remedial actions;

24 (ii) Hazardous waste plans and programs under chapter 70.105 RCW;

25 (iii) Solid waste plans and programs under chapters 70.95, 70.95C,
26 70.95I, and 70.105 RCW;

27 (iv) Funds for a program to assist in the assessment and cleanup of
28 sites of methamphetamine production, but not to be used for the initial
29 containment of such sites, consistent with the responsibilities and
30 intent of RCW 69.50.511; and

31 (v) Cleanup and disposal of hazardous substances from abandoned or
32 derelict vessels, defined for the purposes of this section as vessels
33 that have little or no value and either have no identified owner or
34 have an identified owner lacking financial resources to clean up and
35 dispose of the vessel, that pose a threat to human health or the
36 environment.

37 (b) Funds for plans and programs shall be allocated consistent with
38 the priorities and matching requirements established in chapters

1 70.105, 70.95C, 70.95I, and 70.95 RCW, except that any applicant that
2 is a Puget Sound partner, as defined in RCW 90.71.010, along with any
3 project that is referenced in the action agenda developed by the Puget
4 Sound partnership under RCW 90.71.310, shall, except as conditioned by
5 RCW 70.105D.120, receive priority for any available funding for any
6 grant or funding programs or sources that use a competitive bidding
7 process. During the 2007-2009 fiscal biennium, moneys in the account
8 may also be used for grants to local governments to retrofit public
9 sector diesel equipment and for storm water planning and implementation
10 activities.

11 (c) To expedite cleanups throughout the state, the department shall
12 partner with local communities and liable parties for cleanups. The
13 department is authorized to use the following additional strategies in
14 order to ensure a healthful environment for future generations:

15 (i) The director may alter grant-matching requirements to create
16 incentives for local governments to expedite cleanups when one of the
17 following conditions exists:

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

20 (B) Funding would create new substantial economic development,
21 public recreational, or habitat restoration opportunities that would
22 not otherwise occur; or

23 (C) Funding would create an opportunity for acquisition and
24 redevelopment of vacant, orphaned, or abandoned property under RCW
25 70.105D.040(5) that would not otherwise occur;

26 (ii) The use of outside contracts to conduct necessary studies;

27 (iii) The purchase of remedial action cost-cap insurance, when
28 necessary to expedite multiparty clean-up efforts.

29 (d) To facilitate and expedite cleanups using funds from the local
30 toxics control account, during the 2009-2011 fiscal biennium the
31 director may establish grant-funded accounts to hold and disperse local
32 toxics control account funds and funds from local governments to be
33 used for remedial actions.

34 (4) Except for unanticipated receipts under RCW 43.79.260 through
35 43.79.282, moneys in the state and local toxics control accounts may be
36 spent only after appropriation by statute.

37 (5) Except during the 2011-2013 fiscal biennium, one percent of the
38 moneys deposited into the state and local toxics control accounts shall

1 be allocated only for public participation grants to persons who may be
2 adversely affected by a release or threatened release of a hazardous
3 substance and to not-for-profit public interest organizations. The
4 primary purpose of these grants is to facilitate the participation by
5 persons and organizations in the investigation and remedying of
6 releases or threatened releases of hazardous substances and to
7 implement the state's solid and hazardous waste management priorities.
8 No grant may exceed sixty thousand dollars. Grants may be renewed
9 annually. Moneys appropriated for public participation from either
10 account which are not expended at the close of any biennium shall
11 revert to the state toxics control account.

12 (6) No moneys deposited into either the state or local toxics
13 control account may be used for solid waste incinerator feasibility
14 studies, construction, maintenance, or operation, or, after January 1,
15 2010, for projects designed to address the restoration of Puget Sound,
16 funded in a competitive grant process, that are in conflict with the
17 action agenda developed by the Puget Sound partnership under RCW
18 90.71.310.

19 (7) The department shall adopt rules for grant or loan issuance and
20 performance.

21 (8) During the 2011-2013 fiscal biennium, the legislature may
22 transfer from the local toxics control account to the state toxics
23 control account such amounts as reflect excess fund balance in the
24 account.

25 (9) During the 2011-2013 fiscal biennium, the local toxics control
26 account may also be used for local government shoreline update grants
27 and actions for reducing public exposure to toxic air pollution;
28 funding to local governments for flood levee improvements; and grants
29 to local governments for brownfield redevelopment.

30 (10) All expenditures from either the state or local toxics control
31 accounts intended to address the management, treatment, or control of
32 storm water runoff must be prioritized in a manner that is consistent
33 with section 1 of this act.

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