
SUBSTITUTE SENATE BILL 6207

State of Washington

59th Legislature

2006 Regular Session

By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Rockefeller, Morton, Poulsen and Kline)

READ FIRST TIME 01/27/06.

1 AN ACT Relating to the pollution liability insurance agency;
2 amending RCW 70.148.020, 70.148.050, 70.148.900, 70.149.900, and
3 82.23A.902; reenacting and amending RCW 43.79A.040; repealing 2000 c 16
4 s 4 and 1998 c 245 s 178 (uncodified); repealing 2000 c 16 s 5 and 1997
5 c 8 s 3 (uncodified); repealing 2005 c 428 s 4 (uncodified); providing
6 an effective date; and providing an expiration date.

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

8 **Sec. 1.** RCW 70.148.020 and 2005 c 518 s 942 are each amended to
9 read as follows:

10 (1) The pollution liability insurance program trust account is
11 established in the custody of the state treasurer. All funds
12 appropriated for this chapter and all premiums collected for
13 reinsurance shall be deposited in the account. Expenditures from the
14 account shall be used exclusively for the purposes of this chapter
15 including payment of costs of administering the pollution liability
16 insurance and underground storage tank community assistance programs.
17 Expenditures for payment of administrative and operating costs of the
18 agency are subject to the allotment procedures under chapter 43.88 RCW

1 and may be made only after appropriation by statute. No appropriation
2 is required for other expenditures from the account.

3 (2) Each calendar quarter, the director shall report to the
4 insurance commissioner the loss and surplus reserves required for the
5 calendar quarter. The director shall notify the department of revenue
6 of this amount by the fifteenth day of each calendar quarter.

7 (3) Each calendar quarter the director shall determine the amount
8 of reserves necessary to fund commitments made to provide financial
9 assistance under RCW 70.148.130 to the extent that the financial
10 assistance reserves do not jeopardize the operations and liabilities of
11 the pollution liability insurance program. The director shall notify
12 the department of revenue of this amount by the fifteenth day of each
13 calendar quarter. The director may immediately establish an initial
14 financial assistance reserve of five million dollars from available
15 revenues. The director may not expend more than fifteen million
16 dollars for the financial assistance program.

17 (4) During the 2005-2007 fiscal biennium, the legislature may
18 transfer from the pollution liability insurance program trust account
19 to the state general fund such amounts as reflect the excess fund
20 balance of the account.

21 (5) This section expires June 1, (~~2007~~) 2013.

22 **Sec. 2.** RCW 70.148.050 and 1998 c 245 s 115 are each amended to
23 read as follows:

24 The director has the following powers and duties:

25 (1) To design and from time to time revise a reinsurance contract
26 providing coverage to an insurer meeting the requirements of this
27 chapter. Before initially entering into a reinsurance contract, the
28 director shall prepare an actuarial report describing the various
29 reinsurance methods considered by the director and describing each
30 method's costs. In designing the reinsurance contract the director
31 shall consider common insurance industry reinsurance contract
32 provisions and shall design the contract in accordance with the
33 following guidelines:

34 (a) The contract shall provide coverage to the insurer for the
35 liability risks of owners and operators of underground storage tanks
36 for third party bodily injury and property damage and corrective action
37 that are underwritten by the insurer.

1 (b) In the event of an insolvency of the insurer, the reinsurance
2 contract shall provide reinsurance payable directly to the insurer or
3 to its liquidator, receiver, or successor on the basis of the liability
4 of the insurer in accordance with the reinsurance contract. In no
5 event may the program be liable for or provide coverage for that
6 portion of any covered loss that is the responsibility of the insurer
7 whether or not the insurer is able to fulfill the responsibility.

8 (c) The total limit of liability for reinsurance coverage shall not
9 exceed one million dollars per occurrence and two million dollars
10 annual aggregate for each policy underwritten by the insurer less the
11 ultimate net loss retained by the insurer as defined and provided for
12 in the reinsurance contract.

13 (d) Disputes between the insurer and the insurance program shall be
14 settled through arbitration.

15 (2) To design and implement a structure of periodic premiums due
16 the director from the insurer that takes full advantage of revenue
17 collections and projected revenue collections to ensure affordable
18 premiums to the insured consistent with sound actuarial principles.

19 (3) To periodically review premium rates for reinsurance to
20 determine whether revenue appropriations supporting the program can be
21 reduced without substantially increasing the insured's premium costs.

22 (4) To solicit bids from insurers and select an insurer to provide
23 pollution liability insurance to owners and operators of underground
24 storage tanks for third party bodily injury and property damage and
25 corrective action.

26 (5) To monitor the activities of the insurer to ensure compliance
27 with this chapter and protect the program from excessive loss exposure
28 resulting from claims mismanagement by the insurer.

29 (6) To monitor the success of the program and periodically make
30 such reports and recommendations to the legislature as the director
31 deems appropriate, and to annually publish a financial report on the
32 pollution liability insurance program trust account showing, among
33 other things, administrative and other expenses paid from the fund.

34 (7) To annually report the financial and loss experience of the
35 insurer as to policies issued under the program and the financial and
36 loss experience of the program to the legislature.

37 (8) ~~((To evaluate the effects of the program upon the private
38 market for liability insurance for owners and operators of underground~~

1 ~~storage tanks and make recommendations to the legislature on the~~
2 ~~necessity for continuing the program to ensure availability of such~~
3 ~~coverage.~~

4 ~~(9))~~) To enter into contracts with public and private agencies to
5 assist the director in his or her duties to design, revise, monitor,
6 and evaluate the program and to provide technical or professional
7 assistance to the director.

8 ~~((10))~~ (9) To examine the affairs, transactions, accounts,
9 records, documents, and assets of insurers as the director deems
10 advisable.

11 **Sec. 3.** RCW 43.79A.040 and 2005 c 424 s 18, 2005 c 402 s 8, 2005
12 c 215 s 10, and 2005 c 16 s 2 are each reenacted and amended to read as
13 follows:

14 (1) Money in the treasurer's trust fund may be deposited, invested,
15 and reinvested by the state treasurer in accordance with RCW 43.84.080
16 in the same manner and to the same extent as if the money were in the
17 state treasury.

18 (2) All income received from investment of the treasurer's trust
19 fund shall be set aside in an account in the treasury trust fund to be
20 known as the investment income account.

21 (3) The investment income account may be utilized for the payment
22 of purchased banking services on behalf of treasurer's trust funds
23 including, but not limited to, depository, safekeeping, and
24 disbursement functions for the state treasurer or affected state
25 agencies. The investment income account is subject in all respects to
26 chapter 43.88 RCW, but no appropriation is required for payments to
27 financial institutions. Payments shall occur prior to distribution of
28 earnings set forth in subsection (4) of this section.

29 (4)(a) Monthly, the state treasurer shall distribute the earnings
30 credited to the investment income account to the state general fund
31 except under (b) and (c) of this subsection.

32 (b) The following accounts and funds shall receive their
33 proportionate share of earnings based upon each account's or fund's
34 average daily balance for the period: The Washington promise
35 scholarship account, the college savings program account, the
36 Washington advanced college tuition payment program account, the
37 agricultural local fund, the American Indian scholarship endowment

1 fund, the foster care scholarship endowment fund, the foster care
2 endowed scholarship trust fund, the students with dependents grant
3 account, the basic health plan self-insurance reserve account, the
4 contract harvesting revolving account, the Washington state combined
5 fund drive account, the commemorative works account, the Washington
6 international exchange scholarship endowment fund, the developmental
7 disabilities endowment trust fund, the energy account, the fair fund,
8 the fruit and vegetable inspection account, the future teachers
9 conditional scholarship account, the game farm alternative account, the
10 grain inspection revolving fund, the juvenile accountability incentive
11 account, the law enforcement officers' and fire fighters' plan 2
12 expense fund, the local tourism promotion account, the produce railcar
13 pool account, the rural rehabilitation account, the stadium and
14 exhibition center account, the youth athletic facility account, the
15 self-insurance revolving fund, the sulfur dioxide abatement account,
16 the children's trust fund, the Washington horse racing commission
17 Washington bred owners' bonus fund account, the Washington horse racing
18 commission class C purse fund account, the individual development
19 account program account, the Washington horse racing commission
20 operating account (earnings from the Washington horse racing commission
21 operating account must be credited to the Washington horse racing
22 commission class C purse fund account), the pollution liability
23 insurance program trust account, and the life sciences discovery fund.
24 However, the earnings to be distributed shall first be reduced by the
25 allocation to the state treasurer's service fund pursuant to RCW
26 43.08.190.

27 (c) The following accounts and funds shall receive eighty percent
28 of their proportionate share of earnings based upon each account's or
29 fund's average daily balance for the period: The advanced right of way
30 revolving fund, the advanced environmental mitigation revolving
31 account, the city and county advance right-of-way revolving fund, the
32 federal narcotics asset forfeitures account, the high occupancy vehicle
33 account, the local rail service assistance account, and the
34 miscellaneous transportation programs account.

35 (5) In conformance with Article II, section 37 of the state
36 Constitution, no trust accounts or funds shall be allocated earnings
37 without the specific affirmative directive of this section.

1 **Sec. 4.** RCW 70.148.900 and 2000 c 16 s 1 are each amended to read
2 as follows:

3 This chapter shall expire June 1, ((2007)) 2013.

4 **Sec. 5.** RCW 70.149.900 and 2000 c 16 s 2 are each amended to read
5 as follows:

6 Sections 1 through 11 of this act shall expire June 1, ((2007))
7 2013.

8 **Sec. 6.** RCW 82.23A.902 and 2000 c 16 s 3 are each amended to read
9 as follows:

10 This chapter shall expire on June 1, ((2007)) 2013, coinciding with
11 the expiration of chapter 70.148 RCW.

12 NEW SECTION. **Sec. 7.** The following acts or parts of acts are each
13 repealed:

- 14 (1) 2000 c 16 s 4 & 1998 c 245 s 178 (uncodified);
- 15 (2) 2000 c 16 s 5 & 1997 c 8 s 3 (uncodified); and
- 16 (3) 2005 c 428 s 4 (uncodified).

17 NEW SECTION. **Sec. 8.** Section 3 of this act takes effect July 1,
18 2006.

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