
HOUSE BILL 1761

State of Washington 60th Legislature 2007 Regular Session

By Representatives Linville, Hunter, Priest, Hunt, B. Sullivan, Upthegrove, Kessler, Sump, Hankins, Jarrett, Fromhold, Appleton, Rolfes, Darneille, Campbell, Conway, Green, O'Brien, Schual-Berke, Simpson, Ormsby and Chase

Read first time 01/26/2007. Referred to Committee on Select Committee on Environmental Health.

1 AN ACT Relating to expediting the cleanup of hazardous waste and
2 creating incentives for Puget Sound cleanups; amending RCW 70.105D.070;
3 adding new sections to chapter 70.105D RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** In 1988, the citizens of the state of
6 Washington created by initiative the model toxics control act. The
7 primary purpose of this act, as stated in its intent, is to raise
8 sufficient funds to clean up all hazardous waste sites and to prevent
9 the creation of future hazards due to improper disposal of toxic wastes
10 into the state's lands and waters. The legislature reaffirms this
11 purpose.

12 The legislature also finds that global economic trends and events
13 since 1988 have caused the funds raised by the model toxics control act
14 to shift in a cyclical manner. The intent of this act is to accelerate
15 clean-up efforts throughout Washington with the goal of cleaning up all
16 currently-known sites within ten years, to create the financing tools
17 to clean up large-scale hazardous waste sites that require multi-year
18 commitments of funding and effort, and to ensure that the state

1 continue its efforts to ensure the long-term ecological health of Puget
2 Sound's sediments and shorelines.

3 **Sec. 2.** RCW 70.105D.070 and 2005 c 488 s 926 are each amended to
4 read as follows:

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

7 (2) The following moneys shall be deposited into the state toxics
8 control account: (a) Those revenues which are raised by the tax
9 imposed under RCW 82.21.030 and which are attributable to that portion
10 of the rate equal to thirty-three one-hundredths of one percent; (b)
11 the costs of remedial actions recovered under this chapter or chapter
12 70.105A RCW; (c) penalties collected or recovered under this chapter;
13 and (d) any other money appropriated or transferred to the account by
14 the legislature. Moneys in the account may be used only to carry out
15 the purposes of this chapter, (~~including but not limited to~~) and
16 consist of the following activities:

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

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

23 (iii) The hazardous waste cleanup program required under this
24 chapter;

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

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

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

31 (vii) Hazardous materials emergency response training;

32 (viii) Water and environmental health protection and monitoring
33 programs;

34 (ix) Programs authorized under chapter 70.146 RCW;

35 (x) A public participation program, including regional citizen
36 advisory committees;

1 (xi) Public funding to assist potentially liable persons to pay for
2 the costs of remedial action in compliance with cleanup standards under
3 RCW 70.105D.030(2)(e) but only when the amount and terms of such
4 funding are established under a settlement agreement under RCW
5 70.105D.040(4) and when the director has found that the funding will
6 achieve both (A) a substantially more expeditious or enhanced cleanup
7 than would otherwise occur, and (B) the prevention or mitigation of
8 unfair economic hardship; and

9 (xii) Development and demonstration of alternative management
10 technologies designed to carry out the top two hazardous waste
11 management priorities of RCW 70.105.150.

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

16 (a) Moneys deposited in the local toxics control account shall be
17 used by the department for grants or loans to local governments for the
18 following purposes in descending order of priority: (i) Remedial
19 actions; (ii) hazardous waste plans and programs under chapter 70.105
20 RCW; (iii) solid waste plans and programs under chapters 70.95, 70.95C,
21 70.95I, and 70.105 RCW; (iv) funds for a program to assist in the
22 assessment and cleanup of sites of methamphetamine production, but not
23 to be used for the initial containment of such sites, consistent with
24 the responsibilities and intent of RCW 69.50.511; and (v) cleanup and
25 disposal of hazardous substances from abandoned or derelict vessels
26 that pose a threat to human health or the environment. For purposes of
27 this subsection (3)(a)(v), "abandoned or derelict vessels" means
28 vessels that have little or no value and either have no identified
29 owner or have an identified owner lacking financial resources to clean
30 up and dispose of the vessel. Funds for plans and programs shall be
31 allocated consistent with the priorities and matching requirements
32 established in chapters 70.105, 70.95C, 70.95I, and 70.95 RCW.
33 (~~During the 1999-2001 fiscal biennium, moneys in the account may also~~
34 ~~be used for the following activities: Conducting a study of whether~~
35 ~~dioxins occur in fertilizers, soil amendments, and soils; reviewing~~
36 ~~applications for registration of fertilizers; and conducting a study of~~
37 ~~plant uptake of metals. During the 2005-2007 fiscal biennium, the~~
38 ~~legislature may transfer from the local toxics control account to the~~

1 ~~state toxics control account such amounts as specified in the omnibus~~
2 ~~capital budget bill. During the 2005-2007 fiscal biennium, moneys in~~
3 ~~the account may also be used for grants to local governments to~~
4 ~~retrofit public sector diesel equipment and for storm water planning~~
5 ~~and implementation activities.))~~

6 (b) Funds may also be appropriated to the department of health to
7 implement programs to reduce testing requirements under the federal
8 safe drinking water act for public water systems. The department of
9 health shall reimburse the account from fees assessed under RCW
10 70.119A.115 by June 30, 1995.

11 (4) Except for unanticipated receipts under RCW 43.79.260 through
12 43.79.282, moneys in the state and local toxics control accounts may be
13 spent only after appropriation by statute.

14 (5) One percent of the moneys deposited into the state and local
15 toxics control accounts shall be allocated only for public
16 participation grants to persons who may be adversely affected by a
17 release or threatened release of a hazardous substance and to not-for-
18 profit public interest organizations. The primary purpose of these
19 grants is to facilitate the participation by persons and organizations
20 in the investigation and remedying of releases or threatened releases
21 of hazardous substances and to implement the state's solid and
22 hazardous waste management priorities. However, during the 1999-2001
23 fiscal biennium, funding may not be granted to entities engaged in
24 lobbying activities, and applicants may not be awarded grants if their
25 cumulative grant awards under this section exceed two hundred thousand
26 dollars. No grant may exceed sixty thousand dollars. Grants may be
27 renewed annually. Moneys appropriated for public participation from
28 either account which are not expended at the close of any biennium
29 shall revert to the state toxics control account.

30 (6) No moneys deposited into either the state or local toxics
31 control account may be used for solid waste incinerator feasibility
32 studies, construction, maintenance, or operation.

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

35 (8) ~~((During the 2005-2007 fiscal biennium, the legislature may~~
36 ~~transfer from the state toxics control account to the water quality~~
37 ~~account such amounts as reflect the excess fund balance of the fund))~~
38 Within thirty days after June 30, 2008, and within thirty days after

1 each succeeding fiscal year thereafter, the state treasurer shall
2 determine the tax receipts deposited into the state toxics control
3 account for the preceding fiscal year. If the tax receipts deposited
4 into the account exceed thirty million dollars, the state treasurer
5 shall transfer the amount in excess of thirty million dollars to the
6 strategic partnership cleanup account created in section 3 of this act.
7 The thirty million dollar threshold must be adjusted each year by the
8 percentage change in the implicit price deflator for personal
9 expenditures for the United States as published by the bureau of
10 economic analysis of the federal department of commerce.

11 (9) Within thirty days after June 30, 2008, and within thirty days
12 after each succeeding fiscal year thereafter, the state treasurer shall
13 determine the tax receipts deposited into the local toxics control
14 account for the preceding fiscal year. If the tax receipts deposited
15 into the account exceed thirty million dollars, the state treasurer
16 shall transfer the amount in excess of thirty million dollars to the
17 community cleanup assistance account created in section 4 of this act.
18 The thirty million dollar threshold must be adjusted each year by the
19 percentage change in the implicit price deflator for personal
20 expenditures for the United States as published by the bureau of
21 economic analysis of the federal department of commerce.

22 NEW SECTION. Sec. 3. A new section is added to chapter 70.105D
23 RCW to read as follows:

24 (1) The strategic partnership cleanup account is created in the
25 state treasury. The following moneys must be deposited into the
26 account: (a) Those revenues from the transfer of funds under RCW
27 70.105D.070(8); and (b) any other money appropriated or transferred to
28 the account by the legislature.

29 (2) Moneys in the account may be spent only after appropriation.
30 Expenditures from the account may be used only for:

31 (a) Remedial action efforts that constitute a priority of the
32 state;

33 (b) Area-wide clean-up efforts where a state investment is
34 necessary to protect human health and the environment; and

35 (c) Efforts to control new sources of contamination, where the
36 efforts are necessary to protect the health of an existing clean-up
37 site.

1 (3) In order to further the legislature's goals of restoring the
2 health of Puget Sound, the department is authorized to use the
3 strategic partnership cleanup account to accelerate cleanups that
4 benefit the sediments and shorelines of Puget Sound.

5 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.105D
6 RCW to read as follows:

7 (1) The community cleanup assistance account is created in the
8 state treasury. The following moneys must be deposited into the
9 account: (a) Those revenues from the transfer of funds under RCW
10 70.105D.070(9); and (b) any other money appropriated or transferred to
11 the account by the legislature.

12 (2) Moneys in the account may be spent only after appropriation.
13 Expenditures from the account may be used only for grants or loans to
14 local governments for the cleanup of hazardous waste sites under the
15 procedures of this chapter. The intent of this account is to enable
16 the department to create longer-term hazardous waste cleanup
17 partnerships with communities and liable parties. Grants from this
18 account are limited to clean-up sites that:

19 (a) Require a multiyear effort, beyond the state's traditional
20 biennial budget planning timeline;

21 (b) Consist of large-scale hazardous substance releases that impact
22 the state's land and waters in a significant manner; and

23 (c) Have a demonstrated high-level ecological and community clean-
24 up benefit.

25 (3) In order to further the legislature's goals of restoring the
26 health of Puget Sound, the department is authorized to use the
27 community cleanup assistance account to accelerate cleanups that
28 benefit the sediments and shorelines of Puget Sound.

29 (4) In partnering with local communities and liable parties for
30 cleanups funded by the community cleanup assistance account, the
31 department is authorized to use the following additional strategies in
32 order to ensure a healthful environment for future generations:

33 (a) Grant matching requirements that create incentives for local
34 governments to expedite cleanups;

35 (b) The use of outside contracted staff in order to review cleanup
36 documentation and conduct necessary studies;

1 (c) The commitment of funds, subject to availability, for terms of
2 up to ten years;

3 (d) The purchase of remedial action cost-cap insurance, when
4 necessary to expedite multiparty clean-up efforts; and

5 (e) The commitment of funds for operation and maintenance of
6 long-term remedial action obligations, such as the maintenance of
7 treatment or containment systems and required monitoring.

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