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**SUBSTITUTE SENATE BILL 5545**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Das, Rolfes, Takko, McCoy, Hunt, Keiser, Nguyen, and Hasegawa; by request of Department of Ecology)

AN ACT Relating to sustainable recycling; amending RCW 70.93.180 70.95.090, 70.95.100, and 70.95.130; adding a new chapter to Title 70 RCW; providing an effective date; and declaring an emergency.

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

NEW SECTION. **Sec.**  (1) The legislature finds that:

(a) Recycling reduces greenhouse gas emissions, conserves energy and landfill space, provides jobs and valuable feedstock materials to industry, promotes health, and protects the environment;

(b) Washington has long been a leader in sound management of recyclable materials and solid waste;

(c) Waste import restrictions worldwide are having huge implications for state and local recycling programs and operations in Washington state, requiring immediate action by the legislature;

(d) In order to maintain our leadership in recycling and create regional domestic markets, Washington must be innovative and implement best practices for recycling and waste reduction;

(e) Washington's environment and economy will benefit from expanding the number of industries that process recycled materials and use recycled feedstocks in their manufacturing;

(f) Washington recognizes the value of manufacturing incentives to encourage recycling industries to locate and operate in Washington and provide manufacturer incentives to improve the recyclability of their products;

(g) Many local governments and private entities cumulatively affect, and are affected by, the market for recycled commodities but have limited jurisdiction and cannot adequately address the problems of market development that are complex, wide-ranging, and regional in nature;

(h) The private sector has the greatest capacity for creating and expanding markets for recycled commodities and the development of private markets for recycled commodities is in the public interest; and

(i) Washington must create a center to facilitate business assistance, provide basic and applied research and development, as well as policy analysis, to further the development of domestic processing and markets for recycled commodities.

(2) Therefore, it is the policy of the state to create the recycling development center to research, incentivize, and develop new markets and expand existing markets for recycled commodities and recycling facilities.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Center" means recycling development center.

(2) "Department" means the department of ecology.

(3) "Director" means the director of the department of ecology.

(4) "Local government" means a city, town, or county.

(5) "Multiple-family residence" means any structure housing two or more dwelling units.

(6) "Recyclable materials" means those solid wastes that are separated for recycling or reuse, such as papers, metals, and glass, that are identified as recyclable material pursuant to a local comprehensive solid waste plan.

(7) "Recycling" means transforming or remanufacturing waste materials into usable or marketable materials for use other than landfill disposal or incineration.

(8) "Secondary materials" means any materials that are not the primary products from manufacturing and other industrial sectors. These materials may include scrap and residuals from production processes and products that have been recovered at the end of their useful life.

(9) "Solid waste" or "wastes" means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, and recyclable materials.

(10) "Waste reduction" means reducing the amount or toxicity of waste generated or reusing materials.

NEW SECTION. **Sec.**  (1) The recycling development center is created within the department of ecology.

(2) The purpose of the center is to provide or facilitate basic and applied research and development, marketing, and policy analysis in furthering the development of markets and processing for recycled commodities and products. As used in this chapter, market development consists of public and private activities that are used to overcome impediments preventing full and productive use of secondary materials diverted from the waste stream, and that encourage and expand use of those materials and subsequent products. In fulfilling this mission, the center must initially direct its services to businesses that transform or remanufacture waste materials into usable or marketable materials or products for use rather than disposal.

(3) The center must perform the following activities:

(a) Develop an annual work plan. The work plan must describe actions and recommendations for developing markets for commodities comprising a significant percentage of the waste stream and having potential for use as an industrial or commercial feedstock, with initial focus on mixed waste paper and plastics;

(b) Evaluate, analyze, and make recommendations on state policies that may affect markets for recyclable materials;

(c) Work with manufacturers and producers of packaging and other potentially recyclable materials on their work to increase the ability of their products to be recycled or reduced in Washington;

(d) Initiate, conduct, or contract for studies relating to market development for recyclable materials, including but not limited to applied research, technology transfer, and pilot demonstration projects;

(e) Obtain and disseminate information relating to market development for recyclable materials from other state and local agencies and other sources;

(f) Contract with individuals, corporations, trade associations, and research institutions for the purposes of this chapter;

(g) Provide grants or contracts to local governments, state agencies, or other public institutions to further the development or revitalization of recycling markets in accordance with applicable rules and regulations. The department may adopt any rules necessary to implement and enforce this chapter, including but not limited to measures for the center's performance;

(h) Provide business and marketing assistance to public and private sector entities within the state;

(i) Represent the state in regional and national market development issues and work to create a regional recycling development council that will work across either state or provincial borders, or both;

(j) Wherever necessary, the center must work with: Material recovery facility operators; public and private sector recycling and solid waste industries; packaging manufacturers and retailers; local governments; environmental organizations; interested colleges and universities; and state agencies, including the department of commerce and the utilities and transportation commission; and

(k) Report to the legislature and the governor each even-numbered year on the progress of achieving the center's purpose and performing the center's activities.

(4) In order to carry out its responsibilities under this chapter, the department must enter into an interagency agreement with the department of commerce to perform or contract for the following activities:

(a) Provide targeted business assistance to recycling businesses, including:

(i) Development of business plans;

(ii) Market research and planning information;

(iii) Referral and information on market conditions; and

(iv) Information on new technology and product development;

(b) Conduct outreach to negotiate voluntary agreements with manufacturers to increase the use of recycled materials in product development;

(c) Support, promote, and identify research and development to stimulate new technologies and products using recycled materials;

(d) Actively promote manufacturing with recycled commodities, as well as purchasing of recycled products by state agencies, local governments, and the private sector;

(e) Undertake studies on the unmet capital and other needs of reprocessing and manufacturing firms using recycled materials, such as financing and incentive programs; and

(f) Conduct research to understand the waste stream supply chain and incentive strategies for retention, expansion, and attraction of innovative recycling technology businesses.

(5) The requirements of this section are subject to the availability of amounts appropriated for this specific purpose.

NEW SECTION. **Sec.**  (1) The center's activities must be guided by an advisory board.

(2) The duties of the advisory board are to:

(a) Provide advice and guidance on the annual work plan of the center; and

(b) Evaluate, analyze, and make recommendations on state policies that may affect markets for recyclable materials to the director and the department of commerce.

(3) Except as otherwise provided, advisory board members must be appointed by the director in consultation with the department of commerce as follows:

(a) One member to represent cities;

(b) One member to represent eastside counties;

(c) One member to represent westside counties;

(d) One member to represent public interest groups;

(e) Three members from universities or state and federal research institutions;

(f) Up to seven private sector members to represent all aspects of the recycling materials system, including but not limited to manufacturing and packaging, solid waste management, and at least one not-for-profit organization familiar with innovative recycling solutions that are being used internationally in Scandinavia, China, and other countries;

(g) The chair of the utilities and transportation commission or the chair's designee as a nonvoting member; and

(h) Nonvoting, temporary appointments to the board may be made by the chair of the advisory board where specific expertise is needed.

(4) The initial appointments of the seven private sector members are as follows: Three members with three-year terms and four members with two-year terms. Thereafter, members serve two-year renewable terms.

(5) The advisory board must meet at least quarterly.

(6) The chair of the advisory board must be elected from among the members by a simple majority vote.

(7) The advisory board may adopt bylaws and a charter for the operation of its business for the purposes of this chapter.

(8) The department shall provide staff support to the advisory board.

**Sec.**  RCW 70.93.180 and 2015 c 15 s 3 are each amended to read as follows:

(1) There is hereby created an account within the state treasury to be known as the waste reduction, recycling, and litter control account. Moneys in the account may be spent only after appropriation. Expenditures from the waste reduction, recycling, and litter control account shall be used as follows:

(a) ((~~Fifty~~)) Forty percent to the department of ecology, for use by the departments of ecology, natural resources, revenue, transportation, and corrections, and the parks and recreation commission, for use in litter collection programs, to be distributed under RCW 70.93.220. The amount to the department of ecology shall also be used for a central coordination function for litter control efforts statewide; for statewide public awareness programs under RCW 70.93.200(7); and to support employment of youth in litter cleanup as intended in RCW 70.93.020, and for litter pick up using other authorized agencies. The amount to the department shall also be used to defray the costs of administering the funding, coordination, and oversight of local government programs for waste reduction, litter control, recycling, and composting so that local governments can apply one hundred percent of their funding to achieving program goals. The amount to the department of revenue shall be used to enforce compliance with the litter tax imposed in chapter 82.19 RCW;

(b)(i) Twenty percent to the department for local government funding programs for waste reduction, litter control, recycling activities, and composting activities by cities and counties under RCW 70.93.250, to be administered by the department of ecology; (ii) any unspent funds under (b)(i) of this subsection may be used to create and pay for a matching fund competitive grant program to be used by local governments for the development and implementation of contamination reduction and outreach plans for inclusion in comprehensive solid waste management plans or by local governments and nonprofit organizations for local or statewide education programs designed to help the public with litter control, waste reduction, recycling, and composting of primarily the products taxed under chapter 82.19 RCW. Grants must adhere to the following requirements: (A) No grant may exceed sixty thousand dollars; (B) grant recipients shall match the grant funding allocated by the department by an amount equal to twenty-five percent of eligible expenses. A local government's share of these costs may be met by cash or contributed services; (C) the obligation of the department to make grant payments is contingent upon the availability of the amount of money appropriated for this subsection (1)(b); and (D) grants are managed under the guidelines for existing grant programs; and

(c) ((~~Thirty~~)) Forty percent to the department of ecology to: (i) Implement activities under RCW 70.93.200 for waste reduction, recycling, and composting efforts; (ii) provide technical assistance to local governments ((~~for~~)) and commercial ((~~business and residential~~)) businesses to increase recycling markets and recycling and composting programs primarily for the products taxed under chapter 82.19 RCW designed to educate citizens about waste reduction, litter control, and recyclable and compostable products and programs; and (iii) increase access to waste reduction, composting, and recycling programs, particularly for food packaging and plastic bags and appropriate composting techniques.

(2) All taxes imposed in RCW 82.19.010 and fines and bail forfeitures collected or received pursuant to this chapter shall be deposited in the waste reduction, recycling, and litter control account and used for the programs under subsection (1) of this section.

(3) Not less than five percent and no more than ten percent of the amount appropriated into the waste reduction, recycling, and litter control account every biennium shall be reserved for capital needs, including the purchase of vehicles for transporting crews and for collecting litter and solid waste. Capital funds shall be distributed among state agencies and local governments according to the same criteria provided in RCW 70.93.220 for the remainder of the funds, so that the most effective waste reduction, litter control, recycling, and composting programs receive the most funding. The intent of this subsection is to provide funds for the purchase of equipment that will enable the department to account for the greatest return on investment in terms of reaching a zero litter goal.

(4) Funds in the waste reduction, recycling, and litter control account, collected under chapter 82.19 RCW, must be prioritized for the products identified under RCW 82.19.020 solely for the purposes of recycling, composting, and litter collection, reduction, and control programs.

**Sec.**  RCW 70.95.090 and 1991 c 298 s 3 are each amended to read as follows:

Each county and city comprehensive solid waste management plan shall include the following:

(1) A detailed inventory and description of all existing solid waste handling facilities including an inventory of any deficiencies in meeting current solid waste handling needs.

(2) The estimated long-range needs for solid waste handling facilities projected twenty years into the future.

(3) A program for the orderly development of solid waste handling facilities in a manner consistent with the plans for the entire county which shall:

(a) Meet the minimum functional standards for solid waste handling adopted by the department and all laws and regulations relating to air and water pollution, fire prevention, flood control, and protection of public health;

(b) Take into account the comprehensive land use plan of each jurisdiction;

(c) Contain a six year construction and capital acquisition program for solid waste handling facilities; and

(d) Contain a plan for financing both capital costs and operational expenditures of the proposed solid waste management system.

(4) A program for surveillance and control.

(5) A current inventory and description of solid waste collection needs and operations within each respective jurisdiction which shall include:

(a) Any franchise for solid waste collection granted by the utilities and transportation commission in the respective jurisdictions including the name of the holder of the franchise and the address of his or her place of business and the area covered by the franchise;

(b) Any city solid waste operation within the county and the boundaries of such operation;

(c) The population density of each area serviced by a city operation or by a franchised operation within the respective jurisdictions;

(d) The projected solid waste collection needs for the respective jurisdictions for the next six years.

(6) A comprehensive waste reduction and recycling element that, in accordance with the priorities established in RCW 70.95.010, provides programs that (a) reduce the amount of waste generated, (b) provide incentives and mechanisms for source separation, and (c) establish recycling opportunities for the source separated waste.

(7) The waste reduction and recycling element shall include the following:

(a) Waste reduction strategies;

(b) Source separation strategies, including:

(i) Programs for the collection of source separated materials from residences in urban and rural areas. In urban areas, these programs shall include collection of source separated recyclable materials from single and multiple-family residences, unless the department approves an alternative program, according to the criteria in the planning guidelines. Such criteria shall include: Anticipated recovery rates and levels of public participation, availability of environmentally sound disposal capacity, access to markets for recyclable materials, unreasonable cost impacts on the ratepayer over the six-year planning period, utilization of environmentally sound waste reduction and recycling technologies, and other factors as appropriate. In rural areas, these programs shall include but not be limited to drop-off boxes, buy-back centers, or a combination of both, at each solid waste transfer, processing, or disposal site, or at locations convenient to the residents of the county. The drop-off boxes and buy-back centers may be owned or operated by public, nonprofit, or private persons;

(ii) Programs to monitor the collection of source separated waste at nonresidential sites where there is sufficient density to sustain a program;

(iii) Programs to collect yard waste, if the county or city submitting the plan finds that there are adequate markets or capacity for composted yard waste within or near the service area to consume the majority of the material collected; and

(iv) Programs to educate and promote the concepts of waste reduction and recycling;

(c) Recycling strategies, including a description of markets for recyclables, a review of waste generation trends, a description of waste composition, a discussion and description of existing programs and any additional programs needed to assist public and private sector recycling, and an implementation schedule for the designation of specific materials to be collected for recycling, and for the provision of recycling collection services;

(d) Other information the county or city submitting the plan determines is necessary.

(8) An assessment of the plan's impact on the costs of solid waste collection. The assessment shall be prepared in conformance with guidelines established by the utilities and transportation commission. The commission shall cooperate with the Washington state association of counties and the association of Washington cities in establishing such guidelines.

(9) A review of potential areas that meet the criteria as outlined in RCW 70.95.165.

(10) A contamination reduction and outreach plan. The contamination reduction and outreach plan must address reducing contamination in recycling. Except for counties with a population of twenty-five thousand or fewer, by July 1, 2021, a contamination reduction and outreach plan must be included in each solid waste management plan by a plan amendment or included when revising or updating a solid waste management plan developed under this chapter. Jurisdictions may adopt the state's contamination reduction and outreach plan as developed under RCW 70.95.100 in lieu of creating their own plan. A recycling contamination reduction and outreach plan must include the following:

(a) A list of actions for reducing contamination in recycling programs for single-family and multifamily residences, commercial locations, and drop boxes depending on the jurisdictions system components;

(b) A list of key contaminants identified by the jurisdiction or identified by the department;

(c) A discussion of problem contaminants and the contaminants' impact on the collection system;

(d) An analysis of the costs and other impacts associated with contaminants to the recycling system; and

(e) An implementation schedule and details of how outreach is to be conducted. Contamination reduction education methods may include sharing community-wide messaging through newsletters, articles, mailers, social media, web sites, or community events, informing recycling drop box customers about contamination, and improving signage.

**Sec.**  RCW 70.95.100 and 1989 c 431 s 6 are each amended to read as follows:

(1) The department or the commission, as appropriate, shall provide to counties and cities technical assistance including, but not limited to, planning guidelines, in the preparation, review, and revision of solid waste management plans required by this chapter. Guidelines prepared under this section shall be consistent with the provisions of this chapter. Guidelines for the preparation of the waste reduction and recycling element of the comprehensive solid waste management plan shall be completed by the department by March 15, 1990. These guidelines shall provide recommendations to local government on materials to be considered for designation as recyclable materials. The state solid waste management plan prepared pursuant to RCW 70.95.260 shall be consistent with these guidelines.

(2) The department shall be responsible for development and implementation of a comprehensive statewide public information program designed to encourage waste reduction, source separation, and recycling by the public. The department shall operate a toll free hotline to provide the public information on waste reduction and recycling.

(3) The department shall provide technical assistance to local governments in the development and dissemination of informational materials and related activities to assure recognition of unique local waste reduction and recycling programs.

(4)(a) The department must create and implement a statewide recycling contamination reduction and outreach plan based on best management practices for recycling, developed with stakeholder input by July 1, 2020. Jurisdictions may use the statewide plan in lieu of developing their own plan.

(b) The department must provide technical assistance and create guidance to help local jurisdictions determine the extent of contamination in their regional recycling and to develop contamination reduction and outreach plans. Contamination means any material not included on the local jurisdiction's acceptance list.

(c) Contamination reduction education methods may include sharing community-wide messaging through newsletters, articles, mailers, social media, web sites, or community events, informing recycling drop box customers about contamination, and improving signage.

(5) Local governments shall make all materials and information developed with the assistance grants provided under RCW 70.95.130 available to the department for potential use in other areas of the state.

**Sec.**  RCW 70.95.130 and 1969 ex.s. c 134 s 13 are each amended to read as follows:

Any county may apply to the department on a form prescribed thereby for financial aid for the preparation and implementation of the comprehensive county plan for solid waste management required by RCW 70.95.080, including contamination reduction and outreach plans. Any city electing to prepare an independent city plan, a joint city plan, or a joint county-city plan for solid waste management for inclusion in the county comprehensive plan may apply for financial aid for such purpose through the county. Every city application for financial aid for planning shall be filed with the county auditor and shall be included as a part of the county's application for financial aid. Any city preparing an independent plan shall provide for disposal sites wholly within its jurisdiction.

The department shall allocate to the counties and cities applying for financial aid for planning and implementation, including contamination reduction and outreach plan development and implementation, such funds as may be available pursuant to legislative appropriations or from any federal grants for such purpose.

The department shall determine priorities and allocate available funds among the counties and cities applying for aid according to criteria established by regulations of the department considering population, urban development, environmental effects of waste disposal, existing waste handling practices, and the local justification of their proposed expenditures.

NEW SECTION. **Sec.**  Sections 1 through 4 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2019.

**--- END ---**