
SENATE BILL 5824

State of Washington

66th Legislature

2019 Regular Session

By Senator Ericksen

1 AN ACT Relating to saving the whales by enriching the Puget Sound
2 environment with prey for orcas; amending RCW 70.105D.070 and
3 43.83.020; adding new sections to chapter 77.12 RCW; and making
4 appropriations.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 77.12
7 RCW to read as follows:

8 (1) The department shall implement a pilot program to examine the
9 opportunities and challenges associated with organizing its fish
10 hatchery activities to emulate the fish hatchery policies of the
11 state of Alaska with regard to salmon. The directive provided to the
12 department under this subsection includes the authority to actively
13 pursue opportunities for private organizations to build and operate
14 state fish hatcheries, either independently or in cooperation with
15 the department. The objective of the directive provided to the
16 department under this subsection is to evaluate the development of a
17 system of fish hatcheries that will be financially self-supporting
18 over the long term. The pilot program authorized under this
19 subsection must be sited at a new salmon hatchery located on the port
20 of Bellingham's property within a redevelopment area located on

1 Bellingham's central waterfront. The new salmon hatchery may utilize
2 remote release sites in northern Puget Sound.

3 (2) In addition to the pilot program authorized under subsection
4 (1) of this section, the department shall submit a report to the
5 legislature that provides recommendations for legislation related to
6 the state hatchery program that would be necessary, in the
7 department's opinion, to satisfy the state's salmon recovery goals in
8 an efficient and fiscally sustainable manner, including options for
9 privatization, public-private partnerships, and enhancing
10 contributions of salmon for harvesting opportunities. The report
11 required under this subsection (2) must be submitted to the
12 legislature by December 1, 2019.

13 (3) The department may enter into contracts for the purpose of
14 producing technical studies and reports necessary to carry out the
15 pilot program authorized under subsection (1) of this section. The
16 department shall consult with governments, agencies, tribes, and
17 other similar entities as appropriate for the purpose of carrying out
18 its responsibilities under this section.

19 (4) The sum of two hundred thousand dollars, or as much thereof
20 as may be necessary, is appropriated for the fiscal year ending June
21 30, 2019, from the general fund to the department of fish and
22 wildlife for technical studies, reports, and consultation authorized
23 under this section.

24 (5) The sum of one million eight hundred thousand dollars, or as
25 much thereof as may be necessary, is appropriated for the fiscal year
26 ending June 30, 2020, from the general fund to the department of fish
27 and wildlife for technical studies, reports, and consultation
28 authorized under this section.

29 NEW SECTION. **Sec. 2.** (1) The sum of one million dollars, or as
30 much thereof as may be necessary, is appropriated for the fiscal year
31 ending June 30, 2019, from the state toxics control account to the
32 department of fish and wildlife solely for a grant to the port of
33 Bellingham to construct a new salmon hatchery. The new salmon
34 hatchery must be located on the port of Bellingham's property within
35 a redevelopment area located on Bellingham's central waterfront.

36 (2) The sum of two million dollars, or as much thereof as may be
37 necessary, is appropriated for the fiscal year ending June 30, 2020,
38 from the state toxics control account to the department of fish and
39 wildlife solely for the purposes of subsection (1) of this section.

1 (3) The sum of thirteen million dollars, or as much thereof as
2 may be necessary, is appropriated for the fiscal year ending June 30,
3 2019, from the state building construction account to the department
4 of fish and wildlife solely for the purposes of subsection (1) of
5 this section.

6 (5) The sum of twenty-six million dollars, or as much thereof as
7 may be necessary, is appropriated for the fiscal year ending June 30,
8 2020, from the state building construction account to the department
9 of fish and wildlife solely for the purposes of subsection (1) of
10 this section.

11 (6) The legislature intends to appropriate additional moneys in
12 future biennia as necessary to ensure completion of the salmon
13 hatchery under subsection (1) of this section.

14 NEW SECTION. **Sec. 3.** A new section is added to chapter 77.12
15 RCW to read as follows:

16 Subject to the availability of amounts appropriated for this
17 specific purpose, the department shall establish a bounty system to
18 encourage Washington residents to take pinnipeds that are interfering
19 with the state's goals for salmon recovery.

20 **Sec. 4.** RCW 70.105D.070 and 2018 c 299 s 911 are each amended to
21 read as follows:

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

24 (2)(a) Moneys collected under RCW 82.21.030 must be deposited as
25 follows: Fifty-six percent to the state toxics control account under
26 subsection (3) of this section and forty-four percent to the local
27 toxics control account under subsection (4) of this section. When the
28 cumulative amount of deposits made to the state and local toxics
29 control accounts under this section reaches the limit during a fiscal
30 year as established in (b) of this subsection, the remainder of the
31 moneys collected under RCW 82.21.030 during that fiscal year must be
32 deposited into the environmental legacy stewardship account created
33 in RCW 70.105D.170.

34 (b) The limit on distributions of moneys collected under RCW
35 82.21.030 to the state and local toxics control accounts for the
36 fiscal year beginning July 1, 2013, is one hundred forty million
37 dollars.

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

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

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

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

16 (c) The hazardous waste clean-up program required under this
17 chapter;

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

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

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

24 (g) Oil and hazardous materials spill prevention, preparedness,
25 training, and response activities;

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

28 (i) Programs authorized under chapter 70.146 RCW;

29 (j) A public participation program;

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

38 (l) Development and demonstration of alternative management
39 technologies designed to carry out the hazardous waste management
40 priorities of RCW 70.105.150;

1 (m) State agriculture and health programs for the safe use,
2 reduction, recycling, or disposal of pesticides;

3 (n) Stormwater pollution control projects and activities that
4 protect or preserve existing remedial actions or prevent hazardous
5 clean-up sites;

6 (o) Funding requirements to maintain receipt of federal funds
7 under the federal solid waste disposal act (42 U.S.C. Sec. 6901 et
8 seq.);

9 (p) Air quality programs and actions for reducing public exposure
10 to toxic air pollution;

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

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

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

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

23 (r) Petroleum-based plastic or expanded polystyrene foam debris
24 cleanup activities in fresh or marine waters;

25 (s) Appropriations to the local toxics control account or the
26 environmental legacy stewardship account created in RCW 70.105D.170,
27 if the legislature determines that priorities for spending exceed
28 available funds in those accounts;

29 (t) During the 2015-2017 and 2017-2019 fiscal biennia, the
30 department of ecology's water quality, shorelands, environmental
31 assessment, administration, and air quality programs;

32 (u) During the 2013-2015 fiscal biennium, actions at the state
33 conservation commission to improve water quality for shellfish;

34 (v) During the 2013-2015 and 2015-2017 fiscal biennia, actions at
35 the University of Washington for reducing ocean acidification;

36 (w) During the 2015-2017 and 2017-2019 fiscal biennia, for the
37 University of Washington Tacoma soil remediation project;

38 (x) For the 2013-2015 fiscal biennium, moneys in the state toxics
39 control account may be spent on projects in section 3160, chapter 19,

1 Laws of 2013 2nd sp. sess. and for transfer to the local toxics
2 control account;

3 (y) For the 2013-2015 fiscal biennium, moneys in the state toxics
4 control account may be transferred to the radioactive mixed waste
5 account; and

6 (z) For the 2015-2017 and 2017-2019 fiscal biennia, forest
7 practices regulation at the department of natural resources.

8 (4)(a) The department shall use moneys deposited in the local
9 toxics control account for grants or loans to local governments for
10 the following purposes in descending order of priority:

11 (i) Extended grant agreements entered into under (~~(e)~~) (e)(i)
12 of this subsection;

13 (ii) Remedial actions, including planning for adaptive reuse of
14 properties as provided for under (~~(e)~~) (e)(iv) of this subsection.
15 The department must prioritize funding of remedial actions at:

16 (A) Facilities on the department's hazardous sites list with a
17 high hazard ranking for which there is an approved remedial action
18 work plan or an equivalent document under federal cleanup law;

19 (B) Brownfield properties within a redevelopment opportunity zone
20 if the local government is a prospective purchaser of the property
21 and there is a department-approved remedial action work plan or
22 equivalent document under the federal cleanup law;

23 (iii) Stormwater pollution source projects that: (A) Work in
24 conjunction with a remedial action; (B) protect completed remedial
25 actions against recontamination; or (C) prevent hazardous clean-up
26 sites;

27 (iv) Hazardous waste plans and programs under chapter 70.105 RCW;

28 (v) Solid waste plans and programs under chapters 70.95, 70.95C,
29 70.95I, and 70.105 RCW;

30 (vi) Petroleum-based plastic or expanded polystyrene foam debris
31 cleanup activities in fresh or marine waters; and

32 (vii) Appropriations to the state toxics control account or the
33 environmental legacy stewardship account created in RCW 70.105D.170,
34 if the legislature determines that priorities for spending exceed
35 available funds in those accounts.

36 (b) Funds for plans and programs must be allocated consistent
37 with the priorities and matching requirements established in chapters
38 70.105, 70.95C, 70.95I, and 70.95 RCW.

1 (c) During the 2013-2015 fiscal biennium, the local toxics
2 control account may also be used for local government stormwater
3 planning and implementation activities.

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

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

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

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

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

21 (C) The department may not allocate future funding to an extended
22 grant agreement unless the local government has demonstrated to the
23 department that funds awarded under the agreement during the previous
24 biennium have been substantially expended or contracts have been
25 entered into to substantially expend the funds;

26 (ii) Enter into a grant agreement with a local government
27 conducting a remedial action that provides for periodic reimbursement
28 of remedial action costs as they are incurred as established in the
29 agreement;

30 (iii) Enter into a grant agreement with a local government prior
31 to it acquiring a property or obtaining necessary access to conduct
32 remedial actions, provided the agreement is conditioned upon the
33 local government acquiring the property or obtaining the access in
34 accordance with a schedule specified in the agreement;

35 (iv) Provide integrated planning grants to local governments to
36 fund studies necessary to facilitate remedial actions at brownfield
37 properties and adaptive reuse of properties following remediation.
38 Eligible activities include, but are not limited to: Environmental
39 site assessments; remedial investigations; health assessments;
40 feasibility studies; site planning; community involvement; land use

1 and regulatory analyses; building and infrastructure assessments;
2 economic and fiscal analyses; and any environmental analyses under
3 chapter 43.21C RCW;

4 (v) Provide grants to local governments for remedial actions
5 related to area-wide groundwater contamination. To receive the
6 funding, the local government does not need to be a potentially
7 liable person or be required to seek reimbursement of grant funds
8 from a potentially liable person;

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

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

14 (B) Funding would create new substantial economic development,
15 public recreational opportunities, or habitat restoration
16 opportunities that would not otherwise occur; or

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

20 (vii) When pending grant applications under (e)(iv) and (v) of
21 this subsection (4) exceed the amount of funds available, designated
22 redevelopment opportunity zones must receive priority for
23 distribution of available funds.

24 (f) To expedite multiparty clean-up efforts, the department may
25 purchase remedial action cost-cap insurance. For the 2013-2015 fiscal
26 biennium, moneys in the local toxics control account may be spent on
27 projects in sections 3024, 3035, 3036, and 3059, chapter 19, Laws of
28 2013 2nd sp. sess.

29 (5) Except for unanticipated receipts under RCW 43.79.260 through
30 43.79.282, moneys in the state and local toxics control accounts may
31 be spent only after appropriation by statute.

32 (6) No moneys deposited into either the state or local toxics
33 control account may be used for: Natural disasters where there is no
34 hazardous substance contamination; high performance buildings; solid
35 waste incinerator facility feasibility studies, construction,
36 maintenance, or operation; or projects designed to address the
37 restoration of Puget Sound, funded in a competitive grant process,
38 that are in conflict with the action agenda developed by the Puget
39 Sound partnership under RCW 90.71.310. However, this subsection does
40 not prevent an appropriation from the state toxics control account to

1 the department of revenue to enforce compliance with the hazardous
2 substance tax imposed in chapter 82.21 RCW.

3 (7) Except during the 2011-2013 and the 2015-2017 fiscal biennia,
4 one percent of the moneys collected under RCW 82.21.030 shall be
5 allocated only for public participation grants to persons who may be
6 adversely affected by a release or threatened release of a hazardous
7 substance and to not-for-profit public interest organizations. The
8 primary purpose of these grants is to facilitate the participation by
9 persons and organizations in the investigation and remedying of
10 releases or threatened releases of hazardous substances and to
11 implement the state's solid and hazardous waste management
12 priorities. No grant may exceed sixty thousand dollars. Grants may be
13 renewed annually. Moneys appropriated for public participation that
14 are not expended at the close of any biennium revert to the state
15 toxics control account.

16 (8) The department shall adopt rules for grant or loan issuance
17 and performance. To accelerate both remedial action and economic
18 recovery, the department may expedite the adoption of rules necessary
19 to implement chapter 1, Laws of 2013 2nd sp. sess. using the
20 expedited procedures in RCW 34.05.353. The department shall initiate
21 the award of financial assistance by August 1, 2013. To ensure the
22 adoption of rules will not delay financial assistance, the department
23 may administer the award of financial assistance through interpretive
24 guidance pending the adoption of rules through July 1, 2014.

25 (9) Except as provided under subsection (3)(k) and (q) of this
26 section, nothing in chapter 1, Laws of 2013 2nd sp. sess. affects the
27 ability of a potentially liable person to receive public funding.

28 (10) During the 2015-2017 fiscal biennium the local toxics
29 control account may also be used for the centennial clean water
30 program and for the stormwater financial assistance program
31 administered by the department of ecology.

32 (11) During the 2017-2019 fiscal biennium:

33 (a) The state toxics control account, the local toxics control
34 account, and the environmental legacy stewardship account may be used
35 for interchangeable purposes and funds may be transferred between
36 accounts to accomplish those purposes.

37 (b) The legislature may direct the state treasurer to make
38 transfers of moneys in the state toxics control account to the water
39 pollution control revolving account.

1 (12) The state toxics control account may be used for the purpose
2 of carrying out section 2 of this act.

3 **Sec. 5.** RCW 43.83.020 and 2015 1st sp.s. c 4 s 33 are each
4 amended to read as follows:

5 (1) The state building construction account is hereby established
6 in the state treasury and shall be used exclusively for the purposes
7 of carrying out the provisions of the capital appropriation acts.

8 (2) During the 2003-2005 biennium, the legislature may transfer
9 moneys from the state building construction account to the
10 conservation assistance revolving account such amounts as reflect the
11 excess fund balance of the account.

12 (3) The state building construction account may be used for the
13 purpose of carrying out section 2 of this act.

--- END ---