CERTIFICATION OF ENROLLMENT

**ENGROSSED SUBSTITUTE HOUSE BILL 2713**

Chapter 290, Laws of 2020

(partial veto)

66th Legislature

2020 Regular Session

COMPOST PROCUREMENT AND USE

EFFECTIVE DATE: June 11, 2020

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| Passed by the House March 9, 2020  Yeas 95 Nays 1  LAURIE JINKINS  **Speaker of the House of Representatives**  Passed by the Senate March 5, 2020  Yeas 48 Nays 0  CYRUS HABIB  **President of the Senate** | CERTIFICATE  I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 2713** as passed by the House of Representatives and the Senate on the dates hereon set forth.  BERNARD DEAN  Chief Clerk |
| Approved April 2, 2020 2:37 PM with the exception of section 4, which is vetoed. | April 3, 2020 |
| JAY INSLEE  **Governor of the State of Washington** | **Secretary of State**  **State of Washington** |

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**ENGROSSED SUBSTITUTE HOUSE BILL 2713**

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AS AMENDED BY THE SENATE

Passed Legislature - 2020 Regular Session

**State of Washington 66th Legislature 2020 Regular Session**

**By** House State Government & Tribal Relations (originally sponsored by Representatives Walen, Chandler, Springer, Kretz, Fitzgibbon, Blake, Doglio, Davis, Ramel, Goodman, and Pollet)

AN ACT Relating to encouraging compost procurement and use; adding new sections to chapter 43.19A RCW; creating new sections; and providing an expiration date.

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

NEW SECTION. **Sec.**  The legislature finds and declares that local compost manufacturing plays a critical role in our state's solid waste infrastructure. Composting benefits Washington agencies, counties, cities, businesses, and residents by diverting hundreds of thousands of tons of organic waste from landfills, reducing solid waste costs, and lowering carbon emissions. The legislature finds that a growing number of local governments are recognizing the benefits of composting programs and offering compost collection to their residents and businesses. The diversion of food waste from landfills to compost processors remains critical for state and local governments to meet their ambitious diversion goals.

The legislature also finds that composting is a strong carbon reduction industry for Washington, as the application of compost to soil systems permits increased carbon sequestration. Compost can also replace synthetic chemical fertilizer, prevent topsoil erosion, and filter stormwater on green infrastructure projects such as rain gardens and retention ponds.

The legislature declares that state and local governments should lead by example by purchasing and using local compost that meets state standards and by encouraging farming operations to do so as well.

NEW SECTION. **Sec.**  A new section is added to chapter 43.19A RCW to read as follows:

(1) When planning government-funded projects or soliciting and reviewing bids for such projects, all state agencies and local governments shall consider whether compost products can be utilized in the project.

(2) If compost products can be utilized in the project, the state agency or local government must use compost products, except as follows:

(a) A state agency or local government is not required to use compost products if:

(i) Compost products are not available within a reasonable period of time;

(ii) Compost products that are available do not comply with existing purchasing standards;

(iii) Compost products that are available do not comply with federal or state health, quality, and safety standards; and

(iv) Compost purchase prices are not reasonable or competitive; and

(b) A state agency is also not required to use compost products in a project if:

(i) The total cost of using compost is financially prohibitive;

(ii) Application of compost will have detrimental impacts on the physical characteristics and nutrient condition of the soil as it is used for a specific crop;

(iii) The project consists of growing trees in a greenhouse setting, including seed orchard greenhouses; or

(iv) The compost products that are available have not been certified as being free of crop-specific pests and pathogens, including pests and pathogens that could result in the denial of phytosanitary permits for shipping seedlings.

(3) Before the transportation or application of compost products under this section, composting facilities, state agencies, and local governments must ensure compliance with department of agriculture pest control regulations provided in chapter 16-470 WAC.

(4) State agencies and local governments are encouraged to give priority to purchasing compost products from companies that produce compost products locally, are certified by a nationally recognized organization, and produce compost products that are derived from municipal solid waste compost programs and meet quality standards adopted by rule by the department of ecology.

NEW SECTION. **Sec.**  A new section is added to chapter 43.19A RCW to read as follows:

(1) Each local government that provides a residential composting service is encouraged to enter into a purchasing agreement with its compost processor to buy back finished compost products for use in government projects or on government land. The local government is encouraged to purchase an amount of finished compost product that is equal to or greater than fifty percent of the amount of organic residuals it delivered to the compost processor. Local governments may enter into collective purchasing agreements if doing so is more cost-effective or efficient. The compost processor should offer a purchase price that is reasonable and competitive for the specific market.

(2) When purchasing compost products for use in government projects or on government-owned land, local governments are encouraged to purchase compost with at least eight percent food waste, or an amount of food waste that is commensurate with that in the local jurisdiction's curbside collection program.

NEW SECTION. **Sec.**  (1) Subject to amounts appropriated for this specific purpose, the department of agriculture must establish and implement a three-year compost reimbursement pilot program to reimburse farming operations in the state for purchasing and using compost products from facilities with solid waste handling permits, including transportation, equipment, spreading, and labor costs. The grant reimbursements under the pilot program will begin January 1, 2021, and conclude December 31, 2023. For purposes of this program, "farming operation" means: A commercial agricultural, silvicultural, or aquacultural facility or pursuit, including the care and production of livestock and livestock products, poultry and poultry products, apiary products, and plant and animal production for nonfood uses; the planting, cultivating, harvesting, and processing of crops; and the farming or ranching of any plant or animal species in a controlled salt, brackish, or freshwater environment.

(2) To be eligible to participate in the reimbursement pilot program, a farming operation must complete an eligibility review with the department of agriculture prior to transporting or applying any compost products for which reimbursement will be sought under this section. The purpose of the review is for the department of agriculture to ensure that the proposed transport and application of compost products is consistent with the department's agricultural pest control rules in chapter 16-470 WAC. A farming operation must also verify that soil sampling will be allowed as necessary to establish a baseline of soil quality and carbon storage and for subsequent department of agriculture evaluations to assist the department's reporting requirements under subsection (9) of this section.

(3) The department of agriculture must create a form for eligible farming operations to apply for cost reimbursement. All applications for cost reimbursement must be submitted on the form along with documentation of the costs of purchasing and using compost products for which the applicant is requesting reimbursement. The department of agriculture may request that an applicant provide information to verify the source, size, sale weight, or amount of compost products purchased and the cost of transportation, equipment, spreading, and labor. The applicant must also declare that it is not seeking reimbursement for:

(a) Its own compost products;

(b) Compost products that it has transferred, or intends to transfer, to another individual or entity, whether or not for compensation; or

(c) Compost products that were not purchased from a facility with a solid waste handling permit.

(4) A farming operation may submit only one application per year for purchases made and usage costs incurred during the fiscal year that begins on July 1st and ends on June 30th of each year in which the pilot program is in effect. Applications for reimbursement must be filed before the end of the fiscal year in which purchases were made and usage costs incurred.

(5) The department of agriculture must distribute reimbursement funds, subject to the following limitations:

(a) The department of agriculture must distribute reimbursements in a manner that prioritizes small farming operations as measured by acreage;

(b) No farming operation may receive reimbursement if it was not found eligible for reimbursement by the department of agriculture prior to transport or use under subsection (2) of this section;

(c) No farming operation may receive reimbursement for more than fifty percent of the costs it incurs for the purchase and use of compost products, including transportation, equipment, spreading, and labor costs;

(d) No farming operation may receive more than ten thousand dollars per year;

(e) No farming operation may receive reimbursement for its own compost products or compost products that it has transferred, or intends to transfer, to another individual or entity, whether or not for compensation; and

(f) No farming operation may receive reimbursement for compost products that were not purchased from a facility with a solid waste handling permit.

(6) The applicant shall indemnify and hold harmless the state and its officers, agents, and employees from all claims arising out of or resulting from the compost products purchased that are subject to the compost reimbursement pilot program under this section.

(7) There is established within the department of agriculture a compost reimbursement pilot program manager position. The compost reimbursement pilot program manager must possess knowledge and expertise in the area of program management necessary to carry out the duties of the position, which are to:

(a) Facilitate the division and distribution of available costs for reimbursement; and

(b) Manage the day-to-day coordination of the compost reimbursement pilot program.

(8) Any action taken by the department of agriculture pursuant to this section is exempt from the rule-making requirements of chapter 34.05 RCW.

(9) The department of agriculture must submit an annual report to the appropriate committees of the legislature by January 15th of each year of the program, with a final report due January 15, 2024. The report must include:

(a) The amount of compost for which reimbursement was sought under the program;

(b) The qualitative or quantitative effects of the program on soil quality and carbon storage; and

(c) An evaluation of the benefits and costs to the state of continuing, expanding, or furthering the strategies explored in the pilot program.

(10) This section expires June 30, 2024.

**--- END ---**

Passed by the House March 9, 2020.

Passed by the Senate March 5, 2020.

Approved by the Governor April 2, 2020, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 3, 2020.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 4, Engrossed Substitute House Bill No. 2713 entitled:

"AN ACT Relating to encouraging compost procurement and use."

Section 4 creates a new pilot program that would reimburse farmers who purchase compost from solid waste recycling facilities. This new program is not sustainable due to a rapidly changing budget outlook.

For these reasons I have vetoed Section 4 of Engrossed Substitute House Bill No. 2713.

With the exception of Section 4, Engrossed Substitute House Bill No. 2713 is approved."