
SENATE BILL 5895

State of Washington

67th Legislature

2022 Regular Session

By Senators Frockt and Mullet

1 AN ACT Relating to timing restrictions for remedial action grants
2 to local government; amending RCW 70A.305.190; and creating a new
3 section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that:

6 (1) Remedial action grants are an effective means to assist a
7 local government achieve toxic waste cleanup; and

8 (2) Requiring a local government to have all the necessary
9 permits in hand prior to receiving remedial action grant funding has
10 caused unintended delays in implementing projects.

11 **Sec. 2.** RCW 70A.305.190 and 2020 c 20 s 1320 are each amended to
12 read as follows:

13 (1) The model toxics control capital account is hereby created in
14 the state treasury.

15 (2) In addition to the funds deposited into the model toxics
16 control capital account required under RCW 82.21.030, the following
17 moneys must be deposited into the model toxics control capital
18 account:

19 (a) The costs of remedial actions recovered under this chapter,
20 except as provided under RCW 70A.305.170(7);

1 (b) Penalties collected or recovered under this chapter; and

2 (c) Any other money appropriated or transferred to the account by
3 the legislature.

4 (3) Moneys in the model toxics control capital account must be
5 used for the improvement, rehabilitation, remediation, and cleanup of
6 toxic sites and other capital-related expenditures for programs and
7 activities identified in subsection (4) of this section.

8 (4) Moneys in the model toxics control capital account may be
9 used only for capital projects and activities that carry out the
10 purposes of this chapter and for financial assistance to local
11 governments or other persons to carry out those projects or
12 activities, including but not limited to the following, generally in
13 descending order of priority:

14 (a) Remedial actions, including the following generally in
15 descending order of priority:

16 (i) Extended grant agreements entered into under subsection
17 (5)(a) of this section;

18 (ii) Grants or loans to local governments for remedial actions,
19 including planning for adaptive reuse of properties as provided for
20 under subsection (5)(d) of this section. The department must
21 prioritize funding of remedial actions at:

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

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

29 (iii) Department-conducted remedial actions;

30 (iv) Grants to persons intending to remediate contaminated real
31 property for development of affordable housing;

32 (v) Public funding to assist potentially liable persons to pay
33 for the costs of remedial action in compliance with clean-up
34 standards under RCW 70A.305.030(2)(e) if:

35 (A) The amount and terms of the funding are established under a
36 settlement agreement under RCW 70A.305.040(4); and

37 (B) The director has found that the funding will achieve both a
38 substantially more expeditious or enhanced cleanup than would
39 otherwise occur, and the prevention or mitigation of unfair economic
40 hardship;

1 (vi) Public funding to assist prospective purchasers to pay for
2 the costs of remedial action in compliance with clean-up standards
3 under RCW 70A.305.030(2) (e) if:

4 (A) The facility is located within a redevelopment opportunity
5 zone designated under RCW 70A.305.150;

6 (B) The amount and terms of the funding are established under a
7 settlement agreement under RCW 70A.305.040(5); and

8 (C) The director has found the funding will achieve a
9 substantially more expeditious or enhanced cleanup than would
10 otherwise occur, provide a public benefit in addition to cleanup
11 commensurate with the scope of the public funding; and meet any
12 additional criteria established in rule by the department; and

13 (vii) To expedite multiparty clean-up efforts, purchase of
14 remedial action cost-cap insurance;

15 (b) Grants, or loans, or contracts to local governments for solid
16 waste plans and programs under chapters 70A.205, 70A.214, 70A.224,
17 70A.222, 70A.230, and 70A.300 RCW. Funds must be allocated consistent
18 with priorities and matching requirements in the respective chapters;

19 (c) Toxic air pollutant reduction programs, including grants or
20 loans to local governments for woodstoves and diesel;

21 (d) Grants, loans, or contracts to local governments for
22 hazardous waste plans and programs under chapters 70A.405 and 70A.300
23 RCW, including chemical action plan implementation. Funds must be
24 allocated consistent with priorities and matching requirements in the
25 respective chapters; and

26 (e) Petroleum-based plastic or expanded polystyrene foam debris
27 clean-up activities in fresh or marine waters.

28 (5) The department may establish and administer a program to
29 provide grants and loans to local governments for remedial actions,
30 including planning for adaptive reuse of contaminated properties.

31 ~~((The department may not award a grant or loan for a remedial action
32 unless the local government has obtained all of the required permits
33 for the action within one year of the effective date of the enacted
34 budget.))~~ To expedite cleanups throughout the state, the department
35 may use the following strategies when providing grants to local
36 governments under this subsection:

37 (a) Enter into an extended grant agreement with a local
38 government conducting remedial actions at a facility where those
39 actions extend over multiple biennia and the total eligible cost of

1 those actions exceeds (~~twenty million dollars~~) \$20,000,000. The
2 agreement is subject to the following limitations:

3 (i) The initial duration of such an agreement may not exceed
4 (~~ten~~) 10 years. The department may extend the duration of such an
5 agreement upon finding substantial progress has been made on remedial
6 actions at the facility;

7 (ii) Extended grant agreements may not exceed (~~fifty~~) 50
8 percent of the total eligible remedial action costs at the facility;
9 and

10 (iii) The department may not allocate future funding to an
11 extended grant agreement unless the local government has demonstrated
12 to the department that funds awarded under the agreement during the
13 previous biennium have been substantially expended or contracts have
14 been entered into to substantially expend the funds;

15 (b) Enter into a grant agreement with a local government
16 conducting a remedial action that provides for periodic reimbursement
17 of remedial action costs as they are incurred as established in the
18 agreement;

19 (c) Enter into a grant agreement with a local government prior to
20 it acquiring a property or obtaining necessary access to conduct
21 remedial actions, provided the agreement is conditioned upon the
22 local government acquiring the property or obtaining the access in
23 accordance with a schedule specified in the agreement;

24 (d) Provide integrated planning grants to local governments to
25 fund studies necessary to facilitate remedial actions at brownfield
26 properties and adaptive reuse of properties following remediation.
27 Eligible activities include, but are not limited to: Environmental
28 site assessments; remedial investigations; health assessments;
29 feasibility studies; site planning; community involvement; land use
30 and regulatory analyses; building and infrastructure assessments;
31 economic and fiscal analyses; and any environmental analyses under
32 chapter 43.21C RCW;

33 (e) Provide grants to local governments for remedial actions
34 related to area-wide groundwater contamination. To receive the
35 funding, the local government does not need to be a potentially
36 liable person or be required to seek reimbursement of grant funds
37 from a potentially liable person;

38 (f) The director may alter grant matching requirements to create
39 incentives for local governments to expedite cleanups when one of the
40 following conditions exists:

1 (i) Funding would prevent or mitigate unfair economic hardship
2 imposed by the clean-up liability;
3 (ii) Funding would create new substantial economic development,
4 public recreational opportunities, or habitat restoration
5 opportunities that would not otherwise occur; or
6 (iii) Funding would create an opportunity for acquisition and
7 redevelopment of brownfield property under RCW 70A.305.040(5) that
8 would not otherwise occur; and
9 (g) When pending grant applications under subsection (4)(d) and
10 (e) of this section exceed the amount of funds available, designated
11 redevelopment opportunity zones must receive priority for
12 distribution of available funds.
13 (6) Except for unanticipated receipts under RCW 43.79.260 through
14 43.79.282, moneys in model toxics control capital account may be
15 spent only after appropriation by statute.

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