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SECOND SUBSTITUTE HOUSE BILL 2616

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State of Washington

53rd Legislature

1994 Regular Session

By House Committee on Capital Budget (originally sponsored by Representatives Linville, Horn, Rust, Foreman, Kremen, B. Thomas, Roland, Van Luven, Basich, Karahalios, Holm, Hansen, L. Johnson, Peery, J. Kohl, Bray, Flemming, Pruitt, Edmondson, Forner, Valle, Shin, R. Meyers, Ogden, Dunshee, Wolfe, Sheldon, Jones, Brough, Sheahan, Romero, Chappell, Dyer, Springer, King, Cothorn and Long)

Read first time 02/08/94.

1 AN ACT Relating to ground water testing; amending RCW 70.119A.020  
2 and 70.105D.070; adding new sections to chapter 70.119A RCW; creating  
3 a new section; and declaring an emergency.

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

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

6 (1) The federal safe drinking water act has imposed significant new  
7 costs on public water systems and that the state should seek maximum  
8 regulatory flexibility allowed under federal law;

9 (2) There is a need to comprehensively assess and characterize the  
10 ground waters of the state to evaluate public health risks from organic  
11 and inorganic chemicals regulated under federal law;

12 (3) That federal law provides a mechanism to significantly reduce  
13 testing and monitoring costs to public water systems through the use of  
14 area-wide waivers.

15 The legislature therefore directs the department of health to  
16 conduct a voluntary program to selectively test the ground waters of  
17 the state for organic and inorganic chemicals regulated under federal  
18 law for the purpose of granting area-wide waivers.

1       **Sec. 2.** RCW 70.119A.020 and 1991 c 304 s 2 are each amended to  
2 read as follows:

3       Unless the context clearly requires otherwise, the following  
4 definitions apply throughout this chapter:

5       (1) "Department" means the department of health.

6       (2) "Local board of health" means the city, town, county, or  
7 district board of health.

8       (3) "Local health jurisdiction" means an entity created under  
9 chapter 70.05, 70.08, or 70.46 RCW which provides public health  
10 services to persons within the area.

11       (4) "Public water system" means any system, excluding a system  
12 serving only one single-family residence and a system with four or  
13 fewer connections all of which serve residences on the same farm,  
14 providing piped water for human consumption, including any collection,  
15 treatment, storage, or distribution facilities under control of the  
16 purveyor and used primarily in connection with the system; and  
17 collection or pretreatment storage facilities not under control of the  
18 purveyor but primarily used in connection with the system, including:

19       (a) Any collection, treatment, storage, and distribution facilities  
20 under control of the purveyor and used primarily in connection with  
21 such system; and

22       (b) Any collection or pretreatment storage facilities not under  
23 control of the purveyor which are primarily used in connection with  
24 such system.

25       (5) "Order" means a written direction to comply with a provision of  
26 the regulations adopted under RCW 43.20.050(2)(a) or 70.119.050 or to  
27 take an action or a series of actions to comply with the regulations.

28       (6) "Purveyor" means any agency or subdivision of the state or any  
29 municipal corporation, firm, company, mutual or cooperative  
30 association, institution, partnership, or person or any other entity,  
31 that owns or operates a public water system. It also means the  
32 authorized agents of any such entities.

33       (7) "Regulations" means rules adopted to carry out the purposes of  
34 this chapter.

35       (8) "Federal safe drinking water act" means the federal safe  
36 drinking water act, 42 U.S.C. Sec. 300f et seq., as now in effect or  
37 hereafter amended.

1 (9) "Area-wide waivers" means a waiver granted by the department as  
2 a result of a geographically based testing program meeting required  
3 provisions of the federal safe drinking water act.

4 (10) "Local health officer" means the legally qualified physician  
5 who has been appointed as the health officer for the city, town,  
6 county, or district public health department.

7 (~~(10)~~) (11) "Person" includes, but is not limited to, natural  
8 persons, municipal corporations, governmental agencies, firms,  
9 companies, mutual or cooperative associations, institutions, and  
10 partnerships. It also means the authorized agents of any such  
11 entities.

12 (~~(11)~~) (12) "Public health emergency" means a declaration by an  
13 authorized health official of a situation in which either illness, or  
14 exposure known to cause illness, is occurring or is imminent.

15 (~~(12)~~) (13) "Secretary" means the secretary of the department of  
16 health.

17 (~~(13)~~) (14) "State board of health" is the board created by RCW  
18 43.20.030.

19 NEW SECTION. Sec. 3. A new section is added to chapter 70.119A  
20 RCW to read as follows:

21 The department shall develop and implement a voluntary program  
22 sufficient to allow public water systems to be waived from full testing  
23 requirements for organic and inorganic chemicals under the federal safe  
24 drinking water act. The department shall pay the initial testing and  
25 programmatic costs for the area-wide waiver program. The department  
26 shall assess a fee using its authority under RCW 43.20B.020, sufficient  
27 to cover all testing and directly related costs to public water systems  
28 that apply for an area-wide waiver. The department shall adjust the  
29 amount of the fee based on the size of the public drinking water  
30 system. Fees charged by the department may not vary by more than a  
31 factor of ten. The department shall, to the maximum extent possible,  
32 use the services of local governments, local health departments, and  
33 private laboratories to implement the area-wide testing program. The  
34 department shall consult with the departments of agriculture and  
35 ecology for the purpose of exchanging water quality and other  
36 information.

1        NEW SECTION.    **Sec. 4.**    A new section is added to chapter 70.119A  
2 RCW to read as follows:

3        By December 1, 1994, the department shall submit a brief report to  
4 the appropriate standing committees of the legislature on the  
5 following:

6        (1) The water quality characteristics of the public water systems  
7 sampled;

8        (2) The number of waivers granted to public water systems;

9        (3) The fees charged to public water systems and the expected  
10 timeline for collecting the fees;

11       (4) The total amount saved by public water systems through the  
12 area-wide waiver;

13       (5) Recommendations for additional opportunities to grant area-wide  
14 waivers and a summary of associated costs; and

15       (6) Any other information deemed relevant by the department.

16       **Sec. 5.**    RCW 70.105D.070 and 1991 sp.s. c 13 s 69 are each amended  
17 to read as follows:

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

20       (2) The following moneys shall be deposited into the state toxics  
21 control account:    (a) Those revenues which are raised by the tax  
22 imposed under RCW 82.21.030 and which are attributable to that portion  
23 of the rate equal to thirty-three one-hundredths of one percent; (b)  
24 the costs of remedial actions recovered under this chapter or chapter  
25 70.105A RCW; (c) penalties collected or recovered under this chapter;  
26 and (d) any other money appropriated or transferred to the account by  
27 the legislature. Moneys in the account may be used only to carry out  
28 the purposes of this chapter, including but not limited to the  
29 following activities:

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

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

36       (iii) The hazardous waste cleanup program required under this  
37 chapter;

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

1 (v) Financial assistance for local programs in accordance with  
2 ((RCW ~~70.95.130, 70.95.140, 70.95.220, 70.95.230, 70.95.530,~~  
3 ~~70.105.220, 70.105.225, 70.105.235, and 70.105.260~~)) chapters 70.95,  
4 70.95C, 70.95I, and 70.105 RCW;

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

8 (vii) Hazardous materials emergency response training;

9 (viii) Water and environmental health protection and monitoring  
10 programs;

11 (ix) Programs authorized under chapter 70.146 RCW;

12 (x) A public participation program, including regional citizen  
13 advisory committees;

14 (xi) Public funding to assist potentially liable persons to pay for  
15 the costs of remedial action in compliance with cleanup standards under  
16 RCW 70.105D.030(2)(d) but only when the amount and terms of such  
17 funding are established under a settlement agreement under RCW  
18 70.105D.040(4) and when the director has found that the funding will  
19 achieve both (A) a substantially more expeditious or enhanced cleanup  
20 than would otherwise occur, and (B) the prevention or mitigation of  
21 unfair economic hardship; and

22 (xii) Development and demonstration of alternative management  
23 technologies designed to carry out the top two hazardous waste  
24 management priorities of RCW 70.105.150.

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

29 (a) Moneys deposited in the local toxics control account shall be  
30 used by the department for grants or loans to local governments for the  
31 following purposes in descending order of priority: ((+a)) (i)  
32 Remedial actions; ((+b)) (ii) hazardous waste plans and programs under  
33 ((RCW ~~70.105.220, 70.105.225, 70.105.235, and 70.105.260~~)) chapter  
34 70.105 RCW; and ((+e)) (iii) solid waste plans and programs under  
35 ((RCW ~~70.95.130, 70.95.140, 70.95.220, and 70.95.230~~)) chapters 70.95,  
36 70.95C, 70.95I, and 70.105 RCW. Funds for plans and programs shall be  
37 allocated consistent with the priorities and matching requirements  
38 established in chapters 70.105, 70.95C, 70.95I, and 70.95 RCW.

1        (b) Funds may also be appropriated to the department of health to  
2 implement programs to reduce testing requirements under the federal  
3 safe drinking water act for public water systems. The department of  
4 health shall reimburse the account from fees assessed under section 3  
5 of this act by June 30, 1995.

6        (4) Except for unanticipated receipts under RCW 43.79.260 through  
7 43.79.282, moneys in the state and local toxics control accounts may be  
8 spent only after appropriation by statute.

9        (5) One percent of the moneys deposited into the state and local  
10 toxics control accounts shall be allocated only for public  
11 participation grants to persons who may be adversely affected by a  
12 release or threatened release of a hazardous substance and to not-for-  
13 profit public interest organizations. The primary purpose of these  
14 grants is to facilitate the participation by persons and organizations  
15 in the investigation and remedying of releases or threatened releases  
16 of hazardous substances and to implement the state's solid and  
17 hazardous waste management priorities. No grant may exceed fifty  
18 thousand dollars though it may be renewed annually. Moneys  
19 appropriated for public participation from either account which are not  
20 expended at the close of any biennium shall revert to the state toxics  
21 control account.

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

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

27        NEW SECTION. Sec. 6. This act is necessary for the immediate  
28 preservation of the public peace, health, or safety, or support of the  
29 state government and its existing public institutions, and shall take  
30 effect immediately.

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