

CERTIFICATION OF ENROLLMENT  
**SECOND SUBSTITUTE SENATE BILL 5313**

Chapter 140, Laws of 1997

55th Legislature  
1997 Regular Session

ENVIRONMENTAL MITIGATION REVOLVING FUND

EFFECTIVE DATE: 7/27/97

Passed by the Senate March 14, 1997  
YEAS 39 NAYS 8

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BOB MORTON

**President of the Senate**

Passed by the House April 10, 1997  
YEAS 94 NAYS 4

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CLYDE BALLARD

**Speaker of the  
House of Representatives**

Approved April 22, 1997

CERTIFICATE

I, Mike O Connell, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE SENATE BILL 5313** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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MIKE O'CONNELL

**Secretary**

FILED

April 22, 1997 - 4:39 p.m.

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GARY LOCKE  
Governor of the State of Washington

**Secretary of State  
State of Washington**

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SECOND SUBSTITUTE SENATE BILL 5313

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Passed Legislature - 1997 Regular Session

State of Washington

55th Legislature

1997 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Wood, Haugen and Prince; by request of Department of Transportation)

Read first time 03/10/97.

1 AN ACT Relating to environmental mitigation projects; amending RCW  
2 43.79A.040; adding new sections to chapter 47.12 RCW; and creating a  
3 new section.

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

5 NEW SECTION. **Sec. 1.** It is the intent of this act to provide  
6 environmental mitigation in advance of the construction of programmed  
7 projects where desirable and feasible, will provide a more efficient  
8 and predictable environmental permit process, increased benefits to  
9 environmental resources, and a key tool in using the watershed approach  
10 for environmental impact mitigation. The legislative transportation  
11 committee, through its adoption of the December 1994 report  
12 "Environmental Cost Savings and Permit Coordination Study," encourages  
13 state agencies to use a watershed approach based on a water resource  
14 inventory area in an improved environmental mitigation and permitting  
15 process. Establishment of an advanced transportation environmental  
16 mitigation revolving account would help the state to improve permit  
17 processes and environmental protection when providing transportation  
18 services.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 47.12 RCW  
2 to read as follows:

3        For the purpose of environmental mitigation of transportation  
4 projects, the department may acquire or develop, or both acquire and  
5 develop, environmental mitigation sites in advance of the construction  
6 of programmed projects. The term "advanced environmental mitigation"  
7 means mitigation of adverse impacts upon the environment from  
8 transportation projects before their design and construction. Advanced  
9 environmental mitigation consists of the acquisition of property; the  
10 acquisition of property, water, or air rights; the development of  
11 property for the purposes of improved environmental management;  
12 engineering costs necessary for such purchase and development; and the  
13 use of advanced environmental mitigation sites to fulfill project  
14 environmental permit requirements. Advanced environmental mitigation  
15 must be conducted in a manner that is consistent with the definition of  
16 mitigation found in the council of environmental quality regulations  
17 (40 C.F.R. Sec. 1508.20) and the governor's executive order on wetlands  
18 (EO 90-04). Advanced environmental mitigation is for projects approved  
19 by the transportation commission as part of the state's six-year plan  
20 or included in the state highway system plan. Advanced environmental  
21 mitigation may also be conducted in partnership with federal, state, or  
22 local government agencies, tribal governments, interest groups, or  
23 private parties. Partnership arrangements may include joint  
24 acquisition and development of mitigation sites, purchasing and selling  
25 mitigation bank credits among participants, and transfer of mitigation  
26 site title from one party to another. Specific conditions of  
27 partnership arrangements will be developed in written agreements for  
28 each applicable environmental mitigation site.

29        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 47.12 RCW  
30 to read as follows:

31        The advanced environmental mitigation revolving account is created  
32 in the custody of the treasurer, into which the department shall  
33 deposit directly and may expend without appropriation:

34        (1) An initial appropriation included in the department of  
35 transportation's 1997-99 budget, and deposits from other identified  
36 sources;

1 (2) All moneys received by the department from internal and  
2 external sources for the purposes of conducting advanced environmental  
3 mitigation; and

4 (3) Interest gained from the management of the advanced  
5 environmental mitigation revolving account.

6 NEW SECTION. **Sec. 4.** A new section is added to chapter 47.12 RCW  
7 to read as follows:

8 (1) After advanced environmental mitigation is conducted from funds  
9 in the advanced environmental mitigation revolving account, the  
10 advanced environmental mitigation sites must be managed in accordance  
11 with any permits, agreements, or other legal documents under which the  
12 subject advanced environmental mitigation is conducted.

13 (2) When the department or any of its transportation partners  
14 proceeds with the construction of a transportation project that will  
15 use advanced environmental mitigation sites to meet the environmental  
16 mitigation needs of a project, the advanced environmental mitigation  
17 revolving account shall be reimbursed from those transportation project  
18 funds appropriated for the use of the advanced environmental mitigation  
19 sites. Reimbursements to the advanced environmental mitigation  
20 revolving account must be paid at a rate that captures:

21 (a) Projected land acquisition costs for environmental mitigation  
22 for the subject transportation project;

23 (b) Advanced environmental mitigation site development costs;

24 (c) Advanced environmental mitigation site operational costs (e.g.,  
25 site monitoring);

26 (d) Administrative costs for the management of the advanced  
27 environmental revolving account.

28 These costs must be adjusted based on inflation, as appropriate.

29 When only a portion of an advanced environmental mitigation site is  
30 used, the reimbursement rate charged to the purchasing party will be  
31 prorated for the portion used.

32 NEW SECTION. **Sec. 5.** A new section is added to chapter 47.12 RCW  
33 to read as follows:

34 By January 1st of each odd-numbered year, the department shall  
35 report to the legislative transportation committee and the office of  
36 financial management:

37 (1) Which properties were purchased and why;

- 1 (2) Expenditures for the acquired parcels; and  
2 (3) Estimated savings from these actions.

3 **Sec. 6.** RCW 43.79A.040 and 1996 c 253 s 409 are each amended to  
4 read as follows:

5 (1) Money in the treasurer's trust fund may be deposited, invested,  
6 and reinvested by the state treasurer in accordance with RCW 43.84.080  
7 in the same manner and to the same extent as if the money were in the  
8 state treasury.

9 (2) All income received from investment of the treasurer's trust  
10 fund shall be set aside in an account in the treasury trust fund to be  
11 known as the investment income account.

12 (3) The investment income account may be utilized for the payment  
13 of purchased banking services on behalf of treasurer's trust funds  
14 including, but not limited to, depository, safekeeping, and  
15 disbursement functions for the state treasurer or affected state  
16 agencies. The investment income account is subject in all respects to  
17 chapter 43.88 RCW, but no appropriation is required for payments to  
18 financial institutions. Payments shall occur prior to distribution of  
19 earnings set forth in subsection (4) of this section.

20 (4)(a) Monthly, the state treasurer shall distribute the earnings  
21 credited to the investment income account to the state general fund  
22 except under (b) and (c) of this subsection.

23 (b) The following accounts and funds shall receive their  
24 proportionate share of earnings based upon each account's or fund's  
25 average daily balance for the period: The agricultural local fund, the  
26 American Indian scholarship endowment fund, the Washington  
27 international exchange scholarship endowment fund, the energy account,  
28 the fair fund, the game farm alternative account, the grain inspection  
29 revolving fund, the rural rehabilitation account, and the self-  
30 insurance revolving fund. However, the earnings to be distributed  
31 shall first be reduced by the allocation to the state treasurer's  
32 service fund pursuant to RCW 43.08.190.

33 (c) The following accounts and funds shall receive eighty percent  
34 of their proportionate share of earnings based upon each account's or  
35 fund's average daily balance for the period: The advanced right of way  
36 revolving fund, the advanced environmental mitigation revolving  
37 account, the federal narcotics asset forfeitures account, the high

1 occupancy vehicle account, and the local rail service assistance  
2 account.

3 (5) In conformance with Article II, section 37 of the state  
4 Constitution, no trust accounts or funds shall be allocated earnings  
5 without the specific affirmative directive of this section.

Passed the Senate March 14, 1997.

Passed the House April 10, 1997.

Approved by the Governor April 22, 1997.

Filed in Office of Secretary of State April 22, 1997.