

SHB 2678 - S COMM AMD

By Committee on Water, Energy & Environment

1 Strike everything after the enacting clause and insert the
2 following:

3 "**Sec. 1.** RCW 70.148.020 and 2005 c 518 s 942 are each amended to
4 read as follows:

5 (1) The pollution liability insurance program trust account is
6 established in the custody of the state treasurer. All funds
7 appropriated for this chapter and all premiums collected for
8 reinsurance shall be deposited in the account. Expenditures from the
9 account shall be used exclusively for the purposes of this chapter
10 including payment of costs of administering the pollution liability
11 insurance and underground storage tank community assistance programs.
12 Expenditures for payment of administrative and operating costs of the
13 agency are subject to the allotment procedures under chapter 43.88 RCW
14 and may be made only after appropriation by statute. No appropriation
15 is required for other expenditures from the account.

16 (2) Each calendar quarter, the director shall report to the
17 insurance commissioner the loss and surplus reserves required for the
18 calendar quarter. The director shall notify the department of revenue
19 of this amount by the fifteenth day of each calendar quarter.

20 (3) Each calendar quarter the director shall determine the amount
21 of reserves necessary to fund commitments made to provide financial
22 assistance under RCW 70.148.130 to the extent that the financial
23 assistance reserves do not jeopardize the operations and liabilities of
24 the pollution liability insurance program. The director shall notify
25 the department of revenue of this amount by the fifteenth day of each
26 calendar quarter. The director may immediately establish an initial
27 financial assistance reserve of five million dollars from available
28 revenues. The director may not expend more than fifteen million
29 dollars for the financial assistance program.

1 (4) During the 2005-2007 fiscal biennium, the legislature may
2 transfer from the pollution liability insurance program trust account
3 to the state general fund such amounts as reflect the excess fund
4 balance of the account.

5 (5) This section expires June 1, (~~2007~~) 2013.

6 **Sec. 2.** RCW 70.148.050 and 1998 c 245 s 115 are each amended to
7 read as follows:

8 The director has the following powers and duties:

9 (1) To design and from time to time revise a reinsurance contract
10 providing coverage to an insurer meeting the requirements of this
11 chapter. Before initially entering into a reinsurance contract, the
12 director shall prepare an actuarial report describing the various
13 reinsurance methods considered by the director and describing each
14 method's costs. In designing the reinsurance contract the director
15 shall consider common insurance industry reinsurance contract
16 provisions and shall design the contract in accordance with the
17 following guidelines:

18 (a) The contract shall provide coverage to the insurer for the
19 liability risks of owners and operators of underground storage tanks
20 for third party bodily injury and property damage and corrective action
21 that are underwritten by the insurer.

22 (b) In the event of an insolvency of the insurer, the reinsurance
23 contract shall provide reinsurance payable directly to the insurer or
24 to its liquidator, receiver, or successor on the basis of the liability
25 of the insurer in accordance with the reinsurance contract. In no
26 event may the program be liable for or provide coverage for that
27 portion of any covered loss that is the responsibility of the insurer
28 whether or not the insurer is able to fulfill the responsibility.

29 (c) The total limit of liability for reinsurance coverage shall not
30 exceed one million dollars per occurrence and two million dollars
31 annual aggregate for each policy underwritten by the insurer less the
32 ultimate net loss retained by the insurer as defined and provided for
33 in the reinsurance contract.

34 (d) Disputes between the insurer and the insurance program shall be
35 settled through arbitration.

36 (2) To design and implement a structure of periodic premiums due

1 the director from the insurer that takes full advantage of revenue
2 collections and projected revenue collections to ensure affordable
3 premiums to the insured consistent with sound actuarial principles.

4 (3) To periodically review premium rates for reinsurance to
5 determine whether revenue appropriations supporting the program can be
6 reduced without substantially increasing the insured's premium costs.

7 (4) To solicit bids from insurers and select an insurer to provide
8 pollution liability insurance to owners and operators of underground
9 storage tanks for third party bodily injury and property damage and
10 corrective action.

11 (5) To monitor the activities of the insurer to ensure compliance
12 with this chapter and protect the program from excessive loss exposure
13 resulting from claims mismanagement by the insurer.

14 (6) To monitor the success of the program and periodically make
15 such reports and recommendations to the legislature as the director
16 deems appropriate, and to annually publish a financial report on the
17 pollution liability insurance program trust account showing, among
18 other things, administrative and other expenses paid from the fund.

19 (7) To annually report the financial and loss experience of the
20 insurer as to policies issued under the program and the financial and
21 loss experience of the program to the legislature.

22 ~~(8) ((To evaluate the effects of the program upon the private
23 market for liability insurance for owners and operators of underground
24 storage tanks and make recommendations to the legislature on the
25 necessity for continuing the program to ensure availability of such
26 coverage.~~

27 ~~(9))~~ To enter into contracts with public and private agencies to
28 assist the director in his or her duties to design, revise, monitor,
29 and evaluate the program and to provide technical or professional
30 assistance to the director.

31 ~~((+10))~~ (9) To examine the affairs, transactions, accounts,
32 records, documents, and assets of insurers as the director deems
33 advisable.

34 **Sec. 3.** RCW 43.79A.040 and 2005 c 424 s 18, 2005 c 402 s 8, 2005
35 c 215 s 10, and 2005 c 16 s 2 are each reenacted and amended to read as
36 follows:

37 (1) Money in the treasurer's trust fund may be deposited, invested,

1 and reinvested by the state treasurer in accordance with RCW 43.84.080
2 in the same manner and to the same extent as if the money were in the
3 state treasury.

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

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

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

18 (b) The following accounts and funds shall receive their
19 proportionate share of earnings based upon each account's or fund's
20 average daily balance for the period: The Washington promise
21 scholarship account, the college savings program account, the
22 Washington advanced college tuition payment program account, the
23 agricultural local fund, the American Indian scholarship endowment
24 fund, the foster care scholarship endowment fund, the foster care
25 endowed scholarship trust fund, the students with dependents grant
26 account, the basic health plan self-insurance reserve account, the
27 contract harvesting revolving account, the Washington state combined
28 fund drive account, the commemorative works account, the Washington
29 international exchange scholarship endowment fund, the developmental
30 disabilities endowment trust fund, the energy account, the fair fund,
31 the fruit and vegetable inspection account, the future teachers
32 conditional scholarship account, the game farm alternative account, the
33 grain inspection revolving fund, the juvenile accountability incentive
34 account, the law enforcement officers' and fire fighters' plan 2
35 expense fund, the local tourism promotion account, the produce railcar
36 pool account, the rural rehabilitation account, the stadium and
37 exhibition center account, the youth athletic facility account, the
38 self-insurance revolving fund, the sulfur dioxide abatement account,

1 the children's trust fund, the Washington horse racing commission
2 Washington bred owners' bonus fund account, the Washington horse racing
3 commission class C purse fund account, the individual development
4 account program account, the Washington horse racing commission
5 operating account (earnings from the Washington horse racing commission
6 operating account must be credited to the Washington horse racing
7 commission class C purse fund account), the pollution liability
8 insurance program trust account, and the life sciences discovery fund.
9 However, the earnings to be distributed shall first be reduced by the
10 allocation to the state treasurer's service fund pursuant to RCW
11 43.08.190.

12 (c) The following accounts and funds shall receive eighty percent
13 of their proportionate share of earnings based upon each account's or
14 fund's average daily balance for the period: The advanced right of way
15 revolving fund, the advanced environmental mitigation revolving
16 account, the city and county advance right-of-way revolving fund, the
17 federal narcotics asset forfeitures account, the high occupancy vehicle
18 account, the local rail service assistance account, and the
19 miscellaneous transportation programs account.

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

23 **Sec. 4.** RCW 70.148.900 and 2000 c 16 s 1 are each amended to read
24 as follows:

25 This chapter shall expire June 1, ((2007)) 2013.

26 **Sec. 5.** RCW 70.149.900 and 2000 c 16 s 2 are each amended to read
27 as follows:

28 Sections 1 through 11 of this act shall expire June 1, ((2007))
29 2013.

30 **Sec. 6.** RCW 82.23A.902 and 2000 c 16 s 3 are each amended to read
31 as follows:

32 This chapter shall expire on June 1, ((2007)) 2013, coinciding with
33 the expiration of chapter 70.148 RCW.

1 NEW SECTION. **Sec. 7.** The following acts or parts of acts are each
2 repealed:

- 3 (1) 2000 c 16 s 4 & 1998 c 245 s 178 (uncodified);
- 4 (2) 2000 c 16 s 5 & 1997 c 8 s 3 (uncodified); and
- 5 (3) 2005 c 428 s 4 (uncodified).

6 NEW SECTION. **Sec. 8.** Section 3 of this act takes effect July 1,
7 2006."

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8 On page 1, line 1 of the title, after "agency;" strike the
9 remainder of the title and insert "amending RCW 70.148.020, 70.148.050,
10 70.148.900, 70.149.900, and 82.23A.902; reenacting and amending RCW
11 43.79A.040; repealing 2000 c 16 s 4 and 1998 c 245 s 178 (uncodified);
12 repealing 2000 c 16 s 5 and 1997 c 8 s 3 (uncodified); repealing 2005
13 c 428 s 4 (uncodified); providing an effective date; and providing an
14 expiration date."

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