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**SENATE BILL 6285**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Senator Palumbo

AN ACT Relating to creating the hazardous substance tax stabilization act; adding a new section to chapter 70.105 RCW; creating a new section; and providing an effective date.

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

NEW SECTION. **Sec.**  A new section is added to chapter 70.105 RCW to read as follows:

(1) It is the intent of the legislature to support and provide financial reliability for local governments to implement large-scale environmental clean-up construction projects managed by a single local government with construction expected to span multiple Washington state biennia. To this end, the legislature finds that the state should contractually guarantee its agreed upon remedial action grant contribution "cost-share" of large multibiennium projects in the department's remedial action grants and loans program and/or through additional support in the omnibus capital appropriations act. This contractual guarantee must occur as provided in this section.

(2) Subject to the requirements of this section, the state may enter a contract to guarantee its agreed upon cost-share for projects in the department's remedial action grants and loans program under chapter 70.105D RCW:

(a)(i) Simultaneously with:

(A) The local government and department filing the final site clean-up action plan and consent decree with the court; or

(B) The entering of an agreed order for an interim action between the local government and the department; and

(ii) After a detailed engineering construction cost estimate for the project is finalized; and

(b) For clean-up projects in excess of twenty million dollars that span multibiennia that are consistent with subsection (1) of this section and (a) of this subsection (2), at the time the remedial action grant agreement is converted to a contractual obligation, the total of the state's cost-share amount must be deposited in the hazardous substance tax stabilization escrow trust account created in subsection (3) of this act.

(3)(a) The hazardous substance tax stabilization escrow trust account is created in the custody of the state treasurer. Expenditures from the account may only be used for eligible clean-up costs under this chapter. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(b) Funds from the hazardous substance tax stabilization escrow trust account may be used for all work activities required by final clean-up action plans under consent decrees and all activities identified in interim action works plans under agreed orders, but cannot be used to support project costs related to remedial investigations, feasibility studies, preliminary environmental studies, and similarly related project costs.

(c) For the purposes of administering cost reimbursements to the grantee, the department must administer the distributions from the hazardous substance tax stabilization escrow trust account consistent with the applicable remedial action grant rules and pursuant to the agreed upon cost-share in the consent decree or agreed order. The cost-share should be consistent with past practice for state cost-shares on environmental clean-up projects with local government entities. In the event the project costs exceed the engineering estimates used as the cost basis to fund the hazardous substance tax stabilization escrow trust account, the state is required to transfer from the local toxics account to the hazardous substance tax stabilization escrow trust account the amount to meet the actual project costs.

(d) The funds deposited into the hazardous substance tax stabilization escrow trust account and the interest accruing on that portion of the account funds must be shared equally between the state and the contractee.

(e) Any funds distributed to the hazardous substance tax stabilization escrow trust account under this section that are not spent within four years, or any other negotiated time period agreed upon by the state and the contractee, the department shall evaluate the source of the delay and seek to expedite progress toward completion of the remedial action. If the source of the delay is determined to be the contractees inability or unwillingness to perform the agreed-upon remedial action, the department of ecology has the option of making the funds available from the hazardous substance tax stabilization escrow trust account to another eligible project under this chapter.

(4) Any contractual obligations under this section are only authorized to support the implementation and capital investment in the cleanup identified in the final clean-up action plan under consent decree or interim action work plan under an agreed order, such as construction phase costs including, but not limited to, engineering design reporting, detailed engineering design, permitting, construction contractor costs, construction materials procurement, and construction project administration.

(5) The conditions, terms, duration, and state and local match requirements for any contractual obligations under this section must all be determined by consent decree or agreed order and should be consistent with past practice for state cost-shares on environmental clean-up projects with local government entities.

(6) Pursuant to Article I, section 23 of the Washington state Constitution the contracts for funding required under this section may not be impaired.

(7) Remedial projects eligible for funding under this section can be new or prior-approved projects receiving funds from the model toxics control act under chapter 70.105D RCW.

NEW SECTION. **Sec.**  This act may be referred to and cited as the hazardous substance tax stabilization act.

NEW SECTION. **Sec.**  This act takes effect July 1, 2018.

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