H-1857.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**HOUSE BILL 1822**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 67th Legislature 2022 Regular Session**

**By** Representatives Dye, Eslick, Goehner, Robertson, Klicker, Graham, Caldier, Chambers, and Abbarno

AN ACT Relating to improving Puget Sound water quality; amending RCW 70A.65.100; adding new sections to chapter 90.48 RCW; adding a new section to chapter 43.21A RCW; and creating a new section.

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

NEW SECTION. **Sec.**  (1) The legislature finds that the 2007 legislature formally established a goal for the state that the health of Puget Sound be restored by 2020. The state has not yet achieved this goal, as evidenced by the numerous locations within Puget Sound that are listed as impaired waters that fail to meet federal water quality standards. A variety of expensive hurdles remain in place that have challenged the political will to succeed in cleaning up Puget Sound. Primary among these hurdles are the significant volumes of untreated sewage that wastewater treatment systems continue to discharge into Puget Sound as a result of system failure events, and the lack of infrastructure and processes to remove nutrients from wastewater at treatment facilities, even where facilities are functioning as intended. The department of ecology has recently finalized a permit that would begin to require monitoring of nutrient discharges and minor changes to begin to address the nutrient discharge problem.

(2) Therefore, it is the intent of the legislature to expedite nutrient discharge reduction activities towards the achievement of nutrient-related water quality standards across Puget Sound. Furthermore, in order to ensure that the costs of these water quality improvements do not fall solely on local governments and utility ratepayers, it is the intent of the legislature to prioritize climate commitment act revenues towards nutrient discharge reductions.

NEW SECTION. **Sec.**  A new section is added to chapter 90.48 RCW to read as follows:

(1) Each operator of a municipal wastewater sewerage system that discharges untreated sewage or mixtures of untreated stormwater and sewage into state waters must submit a report to the department by February 1st of each year, covering the discharges from the system during the previous calendar year. The report submitted to the department must identify the location of each discharge, the estimated volume of the discharge, the measured impacts to coliform levels and other water quality metrics from the pollution, and any beach closures or other impacts to recreational uses of state waters resulting from the discharge.

(2) By July 1st of each year, relying on the reports submitted to the department under subsection (1) of this section, the department must post on its website and submit a report to the appropriate committees of the legislature consistent with RCW 43.01.036 summarizing the impacts of the preceding year's discharges of untreated sewage into Puget Sound.

NEW SECTION. **Sec.**  A new section is added to chapter 43.21A RCW to read as follows:

(1) The office of Puget Sound water quality is established within the department. The office of Puget Sound water quality has the authority to:

(a) Provide technical assistance to local governments and other municipal wastewater treatment system operators discharging nutrients into Puget Sound in support of their efforts to reduce nutrient discharges into Puget Sound;

(b) Identify funding opportunities, including private and federal, state, and local public funds available for use for the purposes of this section;

(c) Assist municipal wastewater treatment system operators with water quality grant and loan opportunities;

(d) Take all appropriate steps to seek and apply for federal funds for which the office of Puget Sound water quality is eligible, and other grants, and accept donations, and must deposit these funds in the wastewater nutrient reduction account created in section 5 of this act; and

(e) Collaborate with the Puget Sound partnership, programs within the department, and other applicable state agencies.

(2) Each year, the office of Puget Sound water quality is responsible for making grants for municipal wastewater nutrient discharge reduction projects from the amounts deposited into the wastewater nutrient reduction account created in section 5 of this act. The office of Puget Sound water quality must distribute funds in the wastewater nutrient reduction account to fund wastewater nutrient discharge reduction projects proposed by municipal wastewater treatment system operators. To the extent that moneys in the account in a year are not sufficient to fully fund all projects proposed by system operators, the department must distribute funds with prioritization given to projects that are:

(a) The most cost-effective at reducing nutrients in municipal wastewater discharge; and

(b) Capable of most expeditiously achieving nutrient reductions in municipal wastewater discharge.

**Sec.**  RCW 70A.65.100 and 2021 c 316 s 12 are each amended to read as follows:

(1) Except as provided in RCW 70A.65.110, 70A.65.120, and 70A.65.130, the department shall distribute allowances through auctions as provided in this section and in rules adopted by the department to implement these sections. An allowance is not a property right.

(2)(a) The department shall hold a maximum of four auctions annually, plus any necessary reserve auctions. An auction may include allowances from the annual allowance budget of the current year and allowances from the annual allowance budgets from prior years that remain to be distributed. The department must transmit to the environmental justice council an auction notice at least 60 days prior to each auction, as well as a summary results report and a postauction public proceeds report within 60 days after each auction. The department must communicate the results of the previous calendar year's auctions to the environmental justice council on an annual basis beginning in 2024.

(b) The department must make future vintage allowances available through parallel auctions at least twice annually in addition to the auctions through which current vintage allowances are exclusively offered under (a) of this subsection.

(3) The department shall engage a qualified, independent contractor to run the auctions. The department shall also engage a qualified financial services administrator to hold the bid guarantees, evaluate bid guarantees, and inform the department of the value of bid guarantees once the bids are accepted.

(4) Auctions are open to covered entities, opt-in entities, and general market participants that are registered entities in good standing. The department shall adopt by rule the requirements for a registered entity to register and participate in a given auction.

(a) Registered entities intending to participate in an auction must submit an application to participate at least 30 days prior to the auction. The application must include the documentation required for review and approval by the department. A registered entity is eligible to participate only after receiving a notice of approval by the department.

(b) Each registered entity that elects to participate in the auction must have a different representative. Only a representative with an approved auction account is authorized to access the auction platform to submit an application or confirm the intent to bid for the registered entity, submit bids on behalf of the registered entity during the bidding window, or to download reports specific to the auction.

(5) The department may require a bid guarantee, payable to the financial services administrator, in an amount greater than or equal to the sum of the maximum value of the bids to be submitted by the registered entity.

(6) To protect the integrity of the auctions, a registered entity or group of registered entities with a direct corporate association are subject to auction purchase and holding limits. The department may impose additional limits if it deems necessary to protect the integrity and functioning of the auctions:

(a) A covered entity or an opt-in entity may not buy more than 10 percent of the allowances offered during a single auction;

(b) A general market participant may not buy more than four percent of the allowances offered during a single auction and may not in aggregate own more than 10 percent of total allowances to be issued in a calendar year;

(c) No registered entity may buy more than the entity's bid guarantee; and

(d) No registered entity may buy allowances that would exceed the entity's holding limit at the time of the auction.

(7)(a) For fiscal year 2023, upon completion and verification of the auction results, the financial services administrator shall notify winning bidders and transfer the auction proceeds to the state treasurer for deposit as follows: (i) ((~~$127,341,000~~)) $27,341,000 must first be deposited into the carbon emissions reduction account created in RCW 70A.65.240 and $100,000,000 must first be deposited into the wastewater nutrient reduction account created in section 5 of this act; and (ii) the remaining auction proceeds to the climate investment account created in RCW 70A.65.250 and the air quality and health disparities improvement account created in RCW 70A.65.280.

(b) For fiscal year 2024, upon completion and verification of the auction results, the financial services administrator shall notify winning bidders and transfer the auction proceeds to the state treasurer for deposit as follows: (i) ((~~$356,697,000~~)) $256,697,000 must first be deposited into the carbon emissions reduction account created in RCW 70A.65.240 and $100,000,000 must first be deposited into the wastewater nutrient reduction account created in section 5 of this act; and (ii) the remaining auction proceeds to the climate investment account created in RCW 70A.65.250 and the air quality and health disparities improvement account created in RCW 70A.65.280.

(c) For fiscal year 2025, upon completion and verification of the auction results, the financial services administrator shall notify winning bidders and transfer the auction proceeds to the state treasurer for deposit as follows: (i) ((~~$366,558,000~~)) $266,558,000 must first be deposited into the carbon emissions reduction account created in RCW 70A.65.240 and $100,000,000 must first be deposited into the wastewater nutrient reduction account created in section 5 of this act; and (ii) the remaining auction proceeds to the climate investment account created in RCW 70A.65.250 and the air quality and health disparities improvement account created in RCW 70A.65.280.

(d) For fiscal years 2026 through 2037, upon completion and verification of the auction results, the financial services administrator shall notify winning bidders and transfer the auction proceeds to the state treasurer for deposit as follows: (i) ((~~$359,117,000~~)) $259,117,000 per year must first be deposited into the carbon emissions reduction account created in RCW 70A.65.240 and $100,000,000 must first be deposited into the wastewater nutrient reduction account created in section 5 of this act; and (ii) the remaining auction proceeds to the climate investment account created in RCW 70A.65.250 and the air quality and health disparities improvement account created in RCW 70A.65.280.

(e) The deposits into the carbon emissions reduction account pursuant to (a) through (d) of this subsection must not exceed $5,200,000,000 over the first 16 years and any remaining auction proceeds must be deposited into the climate investment account created in RCW 70A.65.250 and the air quality and health disparities improvement account created in RCW 70A.65.280.

(f) For fiscal year 2038 and each year thereafter, upon completion and verification of the auction results, the financial services administrator shall notify winning bidders and transfer the auction proceeds to the state treasurer for deposit as follows: (i) 50 percent of the auction proceeds to the carbon emissions reduction account created in RCW 70A.65.240; and (ii) the remaining auction proceeds to the climate investment account created in RCW 70A.65.250 and the air quality and health disparities improvement account created in RCW 70A.65.280.

(8) The department shall adopt by rule provisions to guard against bidder collusion and minimize the potential for market manipulation. A registered entity may not release or disclose any bidding information including: Intent to participate or refrain from participation; auction approval status; intent to bid; bidding strategy; bid price or bid quantity; or information on the bid guarantee provided to the financial services administrator. The department may cancel or restrict a previously approved auction participation application or reject a new application if the department determines that a registered entity has:

(a) Provided false or misleading facts;

(b) Withheld material information that could influence a decision by the department;

(c) Violated any part of the auction rules;

(d) Violated registration requirements; or

(e) Violated any of the rules regarding the conduct of the auction.

(9) Any cancellation or restriction approved by the department under subsection (8) of this section may be permanent or for a specified number of auctions and the cancellation or restriction imposed is not exclusive and is in addition to the remedies that may be available pursuant to chapter 19.86 RCW or other state or federal laws, if applicable.

(10) The department shall design allowance auctions so as to allow, to the maximum extent practicable, linking with external greenhouse gas emissions trading programs in other jurisdictions and to facilitate the transfer of allowances when the state's program has entered into a linkage agreement with other external greenhouse gas emissions trading programs. The department may conduct auctions jointly with linked jurisdictions.

(11) In setting the number of allowances offered at each auction, the department shall consider the allowances in the marketplace due to the marketing of allowances issued as required under RCW 70A.65.110, 70A.65.120, and 70A.65.130 in the department's determination of the number of allowances to be offered at auction. The department shall offer only such number of allowances at each auction as will enhance the likelihood of achieving the goals of RCW 70A.45.020.

NEW SECTION. **Sec.**  A new section is added to chapter 90.48 RCW to read as follows:

(1) The wastewater nutrient reduction account is created in the state treasury. All receipts consistent with RCW 70A.65.100 must be deposited in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for grants under subsection (2) of this section to reduce nutrient discharges from municipal wastewater treatment plants into state waters of the Salish Sea.

(2) The department, relying upon the prioritized project list developed by the office of Puget Sound water quality established in section 3 of this act, must issue grants each year to operators of municipal wastewater treatment facilities for the purpose of reducing nutrients in wastewater discharges.

**--- END ---**