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**SENATE BILL 6170**

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**State of Washington 68th Legislature 2024 Regular Session**

**By** Senators L. Wilson, Mullet, and J. Wilson

AN ACT Relating to legislative oversight of moneys received from enforcement actions; amending RCW 43.79.270 and 43.10.220; adding a new section to chapter 43.79 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 43.79 RCW to read as follows:

(1) A state agency may not expend moneys except pursuant to an appropriation by law if the moneys are received in an administrative or judicial regulatory or civil enforcement action, or settlement thereof, brought by the state.

(2) In any regulatory or civil enforcement action brought by the attorney general under the authority of the attorney general or another state agency where moneys are to be paid to the state or to a state-administered account, the attorney general shall seek a court order or settlement that includes a requirement that the moneys received by the state may not be expended except pursuant to an appropriation by law.

(3) This section does not apply to:

(a) Moneys received by the state for payment by the state to individually identified injured parties or a specifically identified class of parties as damages, restitution, or refunds. However, if such payments to a class of parties include a payment to a state agency, instead of damages, restitution, or refunds, such as payments under the doctrine of cy pres, the expenditure of the payment by the state agency is subject to this section;

(b) Fees or enforcement actions to collect fees, including investigation or examination fees, that are established by administrative rule or statute;

(c) Expenditures from accounts outside the state treasury, including court registries, exclusively for purposes of remedial action or natural resource damages under chapters 70A.305, 90.48, and 90.56 RCW, 33 U.S.C. Sec. 2701 et seq., or 42 U.S.C. Sec. 9601 et seq., or for purposes of financial assurance under chapter 70A.205 or 70A.300 RCW;

(d) Moneys recovered by the department of social and health services for client services, benefits, or vendor overpayments or moneys collected by the division of child support;

(e) Expenditures from nonappropriated funds and accounts that are specifically established by statute if the statute does not incorporate a reference to this section; or

(f) Moneys specifically awarded by a court to the state or allocated in a settlement of any action as court costs or attorneys' fees incurred by the state in pursuing the action.

**Sec.**  RCW 43.79.270 and 2021 c 334 s 972 are each amended to read as follows:

(1) Except as provided in subsection (3) of this section, whenever any money, from the federal government, or from other sources, which was not anticipated in the budget approved by the legislature has actually been received and is designated to be spent for a specific purpose, the head of any department, agency, board, or commission through which such expenditure shall be made is to submit to the governor a statement which may be in the form of a request for an allotment amendment setting forth the facts constituting the need for such expenditure and the estimated amount to be expended: PROVIDED, That no expenditure shall be made in excess of the actual amount received, and no money shall be expended for any purpose except the specific purpose for which it was received, and no money shall be expended under this section if an appropriation is required under section 1 of this act. A copy of any proposal submitted to the governor to expend money from an appropriated fund or account in excess of appropriations provided by law which is based on the receipt of unanticipated revenues shall be submitted to the joint legislative audit and review committee and also to the standing committees on ways and means of the house and senate if the legislature is in session at the same time as it is transmitted to the governor.

(2) Except as provided in subsection (3) of this section, and notwithstanding subsection (1) of this section, whenever money from any source that was not anticipated in the transportation budget approved by the legislature has actually been received and is designated to be spent for a specific purpose, the head of a department, agency, board, or commission through which the expenditure must be made shall submit to the governor a statement, which may be in the form of a request for an allotment amendment, setting forth the facts constituting the need for the expenditure and the estimated amount to be expended. However, no expenditure may be made in excess of the actual amount received, and no money may be expended for any purpose except the specific purpose for which it was received. A copy of any proposal submitted to the governor to expend money from an appropriated transportation fund or account in excess of appropriations provided by law that is based on the receipt of unanticipated revenues must be submitted, at a minimum, to the standing committees on transportation of the house and senate at the same time as it is transmitted to the governor.

(3) During the 2021-2023 fiscal biennium, whenever any money in the amount of $5,000,000 or more, from the federal government, or from other sources, which was not anticipated in the operating, capital, or transportation budget approved by the legislature has been awarded or has actually been received when the legislature is not in session and the use of the money is unrestricted or provides discretion to use the moneys for more than one agency, program, or purpose, the governor must:

(a) Submit a copy of the proposed allotment amendment to the joint legislative unanticipated revenue oversight committee;

(b) Provide an explanation of the timing, source, and availability of such funds and why the need for the expenditure could not have been anticipated in time for such expenditure to have been approved as part of a budget act for that particular fiscal year; and

(c) Provide the joint legislative unanticipated revenue oversight committee 14 calendar days from submittal the opportunity to review and comment on the proposed allotment amendment before approving under RCW 43.79.280.

**Sec.**  RCW 43.10.220 and 2016 sp.s. c 36 s 926 are each amended to read as follows:

((~~The~~)) Except as provided in section 1 of this act, the attorney general is authorized to expend from the antitrust revolving fund, created by RCW 43.10.210 through 43.10.220, such funds as are necessary for the payment of costs, expenses and charges incurred in the preparation, institution and maintenance of antitrust actions under the state and federal antitrust acts. ((~~During the 2015-2017 fiscal biennium, the attorney general may expend from the antitrust revolving fund for the purposes of the consumer protection activities of the office.~~))

NEW SECTION. **Sec.**  If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec.**  This act takes effect July 1, 2024.

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