

RCW 70A.384.050 Additional powers and duties of director—Site closure account—Perpetual surveillance and maintenance account. The director of ecology shall, in addition to the powers and duties otherwise imposed by law, have the following special powers and duties:

(1) To fulfill the responsibilities of the state under the lease between the state of Washington and the federal government executed September 10, 1964, as amended, covering approximately one hundred fifteen acres of land lying within the Hanford reservation near Richland, Washington. The department of ecology may sublease to private or public entities all or a portion of the land for specific purposes or activities which are determined, after public hearing, to be in agreement with the terms of the lease and in the best interests of the citizens of the state consistent with any criteria that may be developed as a requirement by the legislature;

(2) To assume the responsibilities of the state under the perpetual care agreement between the state of Washington and the federal government executed July 29, 1965, and the sublease between the state of Washington and the site operator of the commercial low-level radioactive waste disposal facility. In order to finance perpetual surveillance and maintenance under the agreement and ensure site closure under the sublease, the department of ecology shall impose and collect fees from parties holding radioactive materials for waste management purposes. The fees shall be established by rule adopted under chapter 34.05 RCW and shall be an amount determined by the department of ecology to be necessary to defray the estimated liability of the state. Such fees shall reflect equity between the disposal facilities of this and other states. A site closure account and a perpetual surveillance and maintenance account are hereby created in the state treasury. Site use permit fees collected by the department of health under RCW 70A.388.060(3) must be deposited in the site closure account and must be used as specified in RCW 70A.388.060(3). Funds in the site closure account other than site use permit fee funds shall be exclusively available to reimburse, to the extent that moneys are available in the account, the site operator for its costs plus a reasonable profit as agreed by the operator and the state, or to reimburse the state licensing agency and any agencies under contract to the state licensing agency for their costs in final closure and decommissioning of the commercial low-level radioactive waste disposal facility. If a balance remains in the account after satisfactory performance of closure and decommissioning, this balance shall be transferred to the perpetual surveillance and maintenance account. The perpetual surveillance and maintenance account shall be used exclusively by the state to meet post-closure surveillance and maintenance costs, or for otherwise satisfying surveillance and maintenance obligations. Appropriations are required to permit expenditures and payment of obligations from the site closure account and the perpetual surveillance and maintenance account. Receipts shall be directed to the site closure account and the perpetual surveillance and maintenance account as specified by the department. Additional moneys specifically appropriated by the legislature or received from any public or private source may be placed in the site closure account and the perpetual surveillance and maintenance account. During the 2003-2005 fiscal biennium, the legislature may transfer up to thirteen million eight hundred thousand dollars from the site closure account to the general fund;

(3) (a) Subject to the conditions in (b) of this subsection, on July 1, 2008, and each July 1st thereafter, the treasurer shall transfer from the perpetual surveillance and maintenance account to the site closure account the sum of nine hundred sixty-six thousand dollars. The nine hundred sixty-six thousand dollars transferred on July 1, 2009, and thereafter shall be adjusted to a level equal to the percentage increase in the United States implicit price deflator for personal consumption. The last transfer under this section shall occur on July 1, 2033.

(b) The transfer in (a) of this subsection shall occur only if written agreement is reached between the state department of ecology and the United States department of energy pursuant to section 6 of the perpetual care agreement dated July 29, 1965, between the United States atomic energy commission and the state of Washington. If agreement cannot be reached between the state department of ecology and the United States department of energy by June 1, 2008, the treasurer shall transfer the funds from the general fund to the site closure account according to the schedule in (a) of this subsection.

(c) If for any reason the commercial low-level radioactive waste disposal facility is closed to further disposal operations during or after the 2003-2005 biennium and before 2033, then the amount remaining to be repaid from the 2003-2005 transfer of thirteen million eight hundred thousand dollars from the site closure account shall be transferred by the treasurer from the general fund to the site closure account to fund the closure and decommissioning of the facility. The treasurer shall transfer to the site closure account in full the amount remaining to be repaid upon written notice from the secretary of health that the department of health has authorized closure or that disposal operations have ceased. The treasurer shall complete the transfer within sixty days of written notice from the secretary of health.

(d) To the extent that money in the site closure account together with the amount of money identified for repayment to the site closure account, pursuant to (a) through (c) of this subsection, equals or exceeds the cost estimate approved by the department of health for closure and decommissioning of the facility, the money in the site closure account together with the amount of money identified for repayment to the site closure account shall constitute adequate financial assurance for purposes of the department of health financial assurance requirements;

(4) To assure maintenance of such insurance coverage by state licensees, lessees, or sublessees as will adequately, in the opinion of the director, protect the citizens of the state against nuclear accidents or incidents that may occur on privately or state-controlled nuclear facilities;

(5) To make application for or otherwise pursue any federal funds to which the state may be eligible, through the federal resource conservation and recovery act or any other federal programs, for the management, treatment or disposal, and any remedial actions, of wastes that are both radioactive and hazardous at all commercial low-level radioactive waste disposal facilities; and

(6) To develop contingency plans for duties and options for the department and other state agencies related to the commercial low-level radioactive waste disposal facility based on various projections of annual levels of waste disposal. These plans shall include an analysis of expected revenue to the state in various taxes and funds related to low-level radioactive waste disposal and the resulting

implications that any increase or decrease in revenue may have on state agency duties or responsibilities. The plans shall be updated annually. [2020 c 20 § 1055; 2012 c 19 § 2; 2003 1st sp.s. c 21 § 1; 1999 c 372 § 12; 1991 sp.s. c 13 § 60; 1990 c 21 § 6; 1989 c 418 § 2; 1986 c 2 § 1; 1983 1st ex.s. c 19 § 8. Formerly RCW 43.200.080.]

Effective date—2012 c 19: See note following RCW 70A.384.010.

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

User permit system—Fees—Indemnity and hold state harmless—Adoption of rules: RCW 70A.388.060.