
SENATE BILL 5728

State of Washington

68th Legislature

2023 Regular Session

By Senators Dozier and Schoesler

1 AN ACT Relating to developing a process to implement exemptions
2 for certain fuels under the climate commitment act; amending RCW
3 70A.65.260; reenacting and amending RCW 70A.65.230; and creating a
4 new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that emissions from
7 watercraft fuels supplied in Washington that are combusted outside of
8 Washington, and motor vehicle fuel or special fuel that is used
9 exclusively for agricultural purposes by a farm fuel user, are exempt
10 from coverage under chapter 70A.65 RCW, commonly known as the
11 Washington climate commitment act. However, the legislature further
12 finds that the intended effect of these exemptions may not be
13 reflected in the prices end users are paying for these exempt fuels
14 due to the compliance obligation imposed by the Washington climate
15 commitment act. The legislature determines that it is in the public
16 interest to develop a process to ensure that end users of exempt
17 fuels in Washington's essential maritime and agriculture sectors will
18 not experience price impacts caused by the Washington climate
19 commitment act, and that it is appropriate to reimburse exempt fuel
20 users for fuel costs they have borne under the Washington climate
21 commitment act.

1 **Sec. 2.** RCW 70A.65.230 and 2022 c 182 s 426 and 2022 c 181 s 8
2 are each reenacted and amended to read as follows:

3 (1) It is the intent of the legislature that each year the total
4 investments made through the carbon emissions reduction account
5 created in RCW 70A.65.240, the climate commitment account created in
6 RCW 70A.65.260, the natural climate solutions account created in RCW
7 70A.65.270, the air quality and health disparities improvement
8 account created in RCW 70A.65.280, the climate transit programs
9 account created in RCW 46.68.500, and the climate active
10 transportation account created in RCW 46.68.490, achieve the
11 following:

12 (a) A minimum of not less than 35 percent and a goal of 40
13 percent of total investments that provide direct and meaningful
14 benefits to vulnerable populations within the boundaries of
15 overburdened communities identified under chapter 70A.02 RCW; and

16 (b) In addition to the requirements of (a) of this subsection, a
17 minimum of not less than 10 percent of total investments that are
18 used for programs, activities, or projects formally supported by a
19 resolution of an Indian tribe, with priority given to otherwise
20 qualifying projects directly administered or proposed by an Indian
21 tribe. An investment that meets the requirements of both this
22 subsection (1)(b) and (a) of this subsection may count toward the
23 minimum percentage targets for both subsections.

24 (2) The expenditure of moneys under this chapter must be
25 consistent with applicable federal, state, and local laws, and treaty
26 rights including, but not limited to, prohibitions on uses of funds
27 imposed by the state Constitution.

28 (3) For the purposes of this section, "benefits" means
29 investments or activities that:

30 (a) Reduce vulnerable population characteristics, environmental
31 burdens, or associated risks that contribute significantly to the
32 cumulative impact designation of overburdened communities;

33 (b) Meaningfully protect an overburdened community from, or
34 support community response to, the impacts of air pollution or
35 climate change; or

36 (c) Meet a community need identified by vulnerable members of the
37 overburdened community that is consistent with the intent of this
38 chapter.

39 (4) The state must develop a process by which to evaluate the
40 impacts of the investments made under this chapter, work across state

1 agencies to develop and track priorities across the different
2 eligible funding categories, and work with the environmental justice
3 council pursuant to RCW 70A.65.040.

4 (5) The state must develop a process by which to ensure that end
5 users of exempt fuels described in RCW 70A.65.080(7) (b) and (e) will
6 be compensated by the state if the price paid by an end user of such
7 fuel includes the cost of a compliance obligation imposed under this
8 chapter. Compensation provided under this subsection must represent
9 the additional amount an exempt fuel end user paid for fuel due to a
10 fuel supplier's compliance obligation. The department, in
11 consultation with the department of revenue, shall provide for a
12 method to determine the additional amount paid by an exempt fuel end
13 user due to a fuel supplier's compliance obligation. Compensation
14 must be paid no later than 14 days after the department receives an
15 application for reimbursement consistent with the process developed
16 under this subsection.

17 **Sec. 3.** RCW 70A.65.260 and 2022 c 179 s 17 are each amended to
18 read as follows:

19 (1) The climate commitment account is created in the state
20 treasury. The account must receive moneys distributed to the account
21 from the climate investment account created in RCW 70A.65.250. Moneys
22 in the account may be spent only after appropriation. Projects,
23 activities, and programs eligible for funding from the account must
24 be physically located in Washington state and include, but are not
25 limited to, the following:

26 (a) Implementing the working (~~families tax rebate~~) families'
27 tax credit in RCW 82.08.0206;

28 (b) Supplementing the growth management planning and
29 environmental review fund established in RCW 36.70A.490 for the
30 purpose of making grants or loans to local governments for the
31 purposes set forth in RCW 43.21C.240, 43.21C.031, 36.70A.500, and
32 36.70A.600, for costs associated with RCW 36.70A.610, and to cover
33 costs associated with the adoption of optional elements of
34 comprehensive plans consistent with RCW 43.21C.420;

35 (c) Programs, activities, or projects that reduce and mitigate
36 impacts from greenhouse gases and copollutants in overburdened
37 communities, including strengthening the air quality monitoring
38 network to measure, track, and better understand air pollution levels

1 and trends and to inform the analysis, monitoring, and pollution
2 reduction measures required in RCW 70A.65.020;

3 (d) Programs, activities, or projects that deploy renewable
4 energy resources, such as solar and wind power, and projects to
5 deploy distributed generation, energy storage, demand-side
6 technologies and strategies, and other grid modernization projects;

7 (e) Programs, activities, or projects that increase the energy
8 efficiency or reduce greenhouse gas emissions of industrial
9 facilities including, but not limited to, proposals to implement
10 combined heat and power, district energy, or on-site renewables, such
11 as solar and wind power, to upgrade the energy efficiency of existing
12 equipment, to reduce process emissions, and to switch to less
13 emissions intensive fuel sources;

14 (f) Programs, activities, or projects that achieve energy
15 efficiency or emissions reductions in the agricultural sector
16 including:

17 (i) Fertilizer management;

18 (ii) Soil management;

19 (iii) Bioenergy;

20 (iv) Biofuels;

21 (v) Grants, rebates, and other financial incentives for
22 agricultural harvesting equipment, heavy-duty trucks, agricultural
23 pump engines, tractors, and other equipment used in agricultural
24 operations;

25 (vi) Grants, loans, or any financial incentives to food
26 processors to implement projects that reduce greenhouse gas
27 emissions;

28 (vii) Renewable energy projects;

29 (viii) Farmworker housing weatherization programs;

30 (ix) Dairy digester research and development;

31 (x) Alternative manure management; and

32 (xi) Eligible fund uses under RCW 89.08.615;

33 (g) Programs, activities, or projects that increase energy
34 efficiency in new and existing buildings, or that promote low carbon
35 architecture, including use of newly emerging alternative building
36 materials that result in a lower carbon footprint in the built
37 environment over the life cycle of the building and component
38 building materials;

1 (h) Programs, activities, or projects that promote the
2 electrification and decarbonization of new and existing buildings,
3 including residential, commercial, and industrial buildings;

4 (i) Programs, activities, or projects that improve energy
5 efficiency, including district energy, and investments in market
6 transformation of high efficiency electric appliances and equipment
7 for space and water heating;

8 (j) Clean energy transition and assistance programs, activities,
9 or projects that assist affected workers or people with lower incomes
10 during the transition to a clean energy economy, or grow and expand
11 clean manufacturing capacity in communities across Washington state
12 including, but not limited to:

13 (i) Programs, activities, or projects that directly improve
14 energy affordability and reduce the energy burden of people with
15 lower incomes, as well as the higher transportation fuel burden of
16 rural residents, such as bill assistance, energy efficiency, and
17 weatherization programs;

18 (ii) Community renewable energy projects that allow qualifying
19 participants to own or receive the benefits of those projects at
20 reduced or no cost;

21 (iii) Programs, activities, or other worker-support projects for
22 bargaining unit and nonsupervisory fossil fuel workers who are
23 affected by the transition away from fossil fuels to a clean energy
24 economy. Worker support may include, but is not limited to: (A) Full
25 wage replacement, health benefits, and pension contributions for
26 every worker within five years of retirement; (B) full wage
27 replacement, health benefits, and pension contributions for every
28 worker with at least one year of service for each year of service up
29 to five years of service; (C) wage insurance for up to five years for
30 workers reemployed who have more than five years of service; (D) up
31 to two years of retraining costs, including tuition and related
32 costs, based on in-state community and technical college costs; (E)
33 peer counseling services during transition; (F) employment placement
34 services, prioritizing employment in the clean energy sector; and (G)
35 relocation expenses;

36 (iv) Direct investment in workforce development, via technical
37 education, community college, institutions of higher education,
38 apprenticeships, and other programs including, but not limited to:

39 (A) Initiatives to develop a forest health workforce established
40 under RCW 76.04.521; and

1 (B) Initiatives to develop new education programs, emerging
2 fields, or jobs pertaining to the clean energy economy;

3 (v) Transportation, municipal service delivery, and technology
4 investments that increase a community's capacity for clean
5 manufacturing, with an emphasis on communities in greatest need of
6 job creation and economic development and potential for commute
7 reduction;

8 (k) Programs, activities, or projects that reduce emissions from
9 landfills and waste-to-energy facilities through diversion of organic
10 materials, methane capture or conversion strategies, installation of
11 gas collection devices and gas control systems, monitoring and
12 reporting of methane emissions, or other means, prioritizing funding
13 needed for any activities by local governments to comply with chapter
14 70A.540 RCW;

15 (l) Carbon dioxide removal projects, programs, and activities;
16 ((and))

17 (m) Activities to support efforts to mitigate and adapt to the
18 effects of climate change affecting Indian tribes, including capital
19 investments in support of the relocation of Indian tribes located in
20 areas at heightened risk due to anticipated sea level rise, flooding,
21 or other disturbances caused by climate change. The legislature
22 intends to dedicate at least \$50,000,000 per biennium from the
23 account for purposes of this subsection; and

24 (n) Reimbursement of amounts expended by end users of exempt
25 fuels described in RCW 70A.65.080(7) (b) or (e) when the price paid
26 by an end user of such exempt fuel included the cost of a compliance
27 obligation imposed under this chapter. Reimbursement under this
28 subsection (1)(n) must be provided in accordance with the process
29 established pursuant to RCW 70A.65.230(5).

30 (2) Moneys in the account may not be used for projects or
31 activities that would violate tribal treaty rights or result in
32 significant long-term damage to critical habitat or ecological
33 functions. Investments from this account must result in long-term
34 environmental benefits and increased resilience to the impacts of
35 climate change.

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