
SENATE BILL 5181

State of Washington

61st Legislature

2009 Regular Session

By Senator Haugen

Read first time 01/15/09. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to the local toxics control account; and reenacting
2 and amending RCW 70.105D.070.

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

4 **Sec. 1.** RCW 70.105D.070 and 2008 c 329 s 921, 2008 c 329 s 920,
5 2008 c 329 s 919, and 2008 c 328 s 6009 are each reenacted and amended
6 to read as follows:

7 (1) The state toxics control account and the local toxics control
8 account are hereby created in the state treasury.

9 (2) The following moneys shall be deposited into the state toxics
10 control account: (a) Those revenues which are raised by the tax
11 imposed under RCW 82.21.030 and which are attributable to that portion
12 of the rate equal to thirty-three one-hundredths of one percent; (b)
13 the costs of remedial actions recovered under this chapter or chapter
14 70.105A RCW; (c) penalties collected or recovered under this chapter;
15 and (d) any other money appropriated or transferred to the account by
16 the legislature. Moneys in the account may be used only to carry out
17 the purposes of this chapter, including but not limited to the
18 following activities:

1 (i) The state's responsibility for hazardous waste planning,
2 management, regulation, enforcement, technical assistance, and public
3 education required under chapter 70.105 RCW;

4 (ii) The state's responsibility for solid waste planning,
5 management, regulation, enforcement, technical assistance, and public
6 education required under chapter 70.95 RCW;

7 (iii) The hazardous waste cleanup program required under this
8 chapter;

9 (iv) State matching funds required under the federal cleanup law;

10 (v) Financial assistance for local programs in accordance with
11 chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

12 (vi) State government programs for the safe reduction, recycling,
13 or disposal of hazardous wastes from households, small businesses, and
14 agriculture;

15 (vii) Hazardous materials emergency response training;

16 (viii) Water and environmental health protection and monitoring
17 programs;

18 (ix) Programs authorized under chapter 70.146 RCW;

19 (x) A public participation program, including regional citizen
20 advisory committees;

21 (xi) Public funding to assist potentially liable persons to pay for
22 the costs of remedial action in compliance with cleanup standards under
23 RCW 70.105D.030(2)(e) but only when the amount and terms of such
24 funding are established under a settlement agreement under RCW
25 70.105D.040(4) and when the director has found that the funding will
26 achieve both (A) a substantially more expeditious or enhanced cleanup
27 than would otherwise occur, and (B) the prevention or mitigation of
28 unfair economic hardship; and

29 (xii) Development and demonstration of alternative management
30 technologies designed to carry out the hazardous waste management
31 priorities of RCW 70.105.150.

32 (3) The following moneys shall be deposited into the local toxics
33 control account: Those revenues which are raised by the tax imposed
34 under RCW 82.21.030 and which are attributable to that portion of the
35 rate equal to thirty-seven one-hundredths of one percent.

36 (a) Moneys deposited in the local toxics control account shall be
37 used by the department for grants or loans to local governments for the
38 following purposes in descending order of priority:

1 (i) Remedial actions;
2 (ii) Hazardous waste plans and programs under chapter 70.105 RCW;
3 (iii) Solid waste plans and programs under chapters 70.95, 70.95C,
4 70.95I, and 70.105 RCW;
5 (iv) Funds for a program to assist in the assessment and cleanup of
6 sites of methamphetamine production, but not to be used for the initial
7 containment of such sites, consistent with the responsibilities and
8 intent of RCW 69.50.511; and

9 (v) Cleanup and disposal of hazardous substances from abandoned or
10 derelict vessels, defined for the purposes of this section as vessels
11 that have little or no value and either have no identified owner or
12 have an identified owner lacking financial resources to clean up and
13 dispose of the vessel, that pose a threat to human health or the
14 environment.

15 (b) Priority consideration for the grants or loans made available
16 under this subsection must be given to a local government involved in
17 an independent remedial action of a site that requests oversight or
18 approval of the department due to the cost or complexity of the
19 remedial action. Local governments that receive loans or grants for
20 this purpose shall provide written attestation as specified by the
21 department that the work on the site will begin within six months after
22 funds are awarded.

23 (c) Funds for plans and programs shall be allocated consistent with
24 the priorities and matching requirements established in chapters
25 70.105, 70.95C, 70.95I, and 70.95 RCW, except that any applicant that
26 is a Puget Sound partner, as defined in RCW 90.71.010, along with any
27 project that is referenced in the action agenda developed by the Puget
28 Sound partnership under RCW 90.71.310, shall, except as conditioned by
29 RCW 70.105D.120, receive priority for any available funding for any
30 grant or funding programs or sources that use a competitive bidding
31 process. During the 2007-2009 fiscal biennium, moneys in the account
32 may also be used for grants to local governments to retrofit public
33 sector diesel equipment and for storm water planning and implementation
34 activities.

35 ((+e)) (d) Funds may also be appropriated to the department of
36 health to implement programs to reduce testing requirements under the
37 federal safe drinking water act for public water systems. The

1 department of health shall reimburse the account from fees assessed
2 under RCW 70.119A.115 by June 30, 1995.

3 ~~((d))~~ (e) To expedite cleanups throughout the state, the
4 department shall partner with local communities and liable parties for
5 cleanups. The department is authorized to use the following additional
6 strategies in order to ensure a healthful environment for future
7 generations:

8 (i) The director may alter grant-matching requirements to create
9 incentives for local governments to expedite cleanups when one of the
10 following conditions exists:

11 (A) Funding would prevent or mitigate unfair economic hardship
12 imposed by the clean-up liability;

13 (B) Funding would create new substantial economic development,
14 public recreational, or habitat restoration opportunities that would
15 not otherwise occur; or

16 (C) Funding would create an opportunity for acquisition and
17 redevelopment of vacant, orphaned, or abandoned property under RCW
18 70.105D.040(5) that would not otherwise occur;

19 (ii) The use of outside contracts to conduct necessary studies;

20 (iii) The purchase of remedial action cost-cap insurance, when
21 necessary to expedite multiparty clean-up efforts.

22 (4) Except for unanticipated receipts under RCW 43.79.260 through
23 43.79.282, moneys in the state and local toxics control accounts may be
24 spent only after appropriation by statute.

25 (5) One percent of the moneys deposited into the state and local
26 toxics control accounts shall be allocated only for public
27 participation grants to persons who may be adversely affected by a
28 release or threatened release of a hazardous substance and to not-for-
29 profit public interest organizations. The primary purpose of these
30 grants is to facilitate the participation by persons and organizations
31 in the investigation and remedying of releases or threatened releases
32 of hazardous substances and to implement the state's solid and
33 hazardous waste management priorities. However, during the 1999-2001
34 fiscal biennium, funding may not be granted to entities engaged in
35 lobbying activities, and applicants may not be awarded grants if their
36 cumulative grant awards under this section exceed two hundred thousand
37 dollars. No grant may exceed sixty thousand dollars. Grants may be

1 renewed annually. Moneys appropriated for public participation from
2 either account which are not expended at the close of any biennium
3 shall revert to the state toxics control account.

4 (6) No moneys deposited into either the state or local toxics
5 control account may be used for solid waste incinerator feasibility
6 studies, construction, maintenance, or operation, or, after January 1,
7 2010, for projects designed to address the restoration of Puget Sound,
8 funded in a competitive grant process, that are in conflict with the
9 action agenda developed by the Puget Sound partnership under RCW
10 90.71.310.

11 (7) The department shall adopt rules for grant or loan issuance and
12 performance.

13 (8) During the 2007-2009 fiscal biennium, the legislature may
14 transfer from the local toxics control account to the state toxics
15 control account such amounts as reflect excess fund balance in the
16 account.

17 (9) During the 2007-2009 fiscal biennium, the local toxics control
18 account may also be used for a standby rescue tug at Neah Bay.

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