

2SHB 3181 - H AMD TO H AMD (H-5591.5/10) 1568
By Representative Warnick

NOT CONSIDERED 03/11/2010

1 Beginning on page 1, line 5 of the amendment, strike all of
2 sections 2 and 3 and insert the following:

3 "NEW SECTION. **Sec. 2.** (1) The legislature finds that nonpoint
4 water pollution and contaminated storm water runoff is a major problem
5 in the state creating a significant burden on the rivers, aquifers,
6 lakes, streams, and marine receiving waters across Washington.

7 (2) The legislature finds that the federal government and the state
8 of Washington have identified control of pollutants in storm water
9 runoff through national pollutant discharge elimination system phase I
10 and II municipal storm water permits as a requirement for the state and
11 local jurisdictions. Impacts from the polluted storm water may be
12 prevented or controlled through retrofit projects for existing
13 infrastructure as well as other means.

14 (3) The legislature finds that existing funding raised by the
15 hazardous substances tax in the last two years has not been used as
16 intended and critical storm water projects have suffered due to the
17 transfer of funding from the state and local toxics control accounts
18 into the general fund.

19 (4) The legislature finds that dedicating existing hazardous
20 substances tax revenue to critical storm water projects is essential to
21 offsetting pollution from storm water runoff.

22 (5) The legislature finds that the department of ecology is still
23 conducting a comprehensive scientific analysis of storm water research
24 to guide policymakers' decisions on storm water. Therefore, the
25 legislature intends to review and approve the final study before making
26 new policy decisions on storm water funding.

27 **Sec. 3.** RCW 70.105D.070 and 2009 c 564 s 951 and 2009 c 187 s 5
28 are each reenacted and amended to read as follows:

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

3 (2) The following moneys (~~shall~~) must be deposited into the state
4 toxics control account: (a) Those revenues which are raised by the tax
5 imposed under RCW 82.21.030 and which are attributable to that portion
6 of the rate equal to thirty-three one-hundredths of one percent; (b)
7 the costs of remedial actions recovered under this chapter or chapter
8 70.105A RCW; (c) penalties collected or recovered under this chapter;
9 and (d) any other money appropriated or transferred to the account by
10 the legislature. Moneys in the account may be used only to carry out
11 the purposes of this chapter, including but not limited to the
12 following activities:

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

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

19 (iii) The hazardous waste cleanup program required under this
20 chapter;

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

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

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

27 (vii) Hazardous materials emergency response training;

28 (viii) Water and environmental health protection and monitoring
29 programs;

30 (ix) Programs authorized under chapter 70.146 RCW;

31 (x) A public participation program, including regional citizen
32 advisory committees;

33 (xi) Public funding to assist potentially liable persons to pay for
34 the costs of remedial action in compliance with cleanup standards under
35 RCW 70.105D.030(2)(e) but only when the amount and terms of such
36 funding are established under a settlement agreement under RCW
37 70.105D.040(4) and when the director has found that the funding will

1 achieve both (A) a substantially more expeditious or enhanced cleanup
2 than would otherwise occur, and (B) the prevention or mitigation of
3 unfair economic hardship;

4 (xii) Development and demonstration of alternative management
5 technologies designed to carry out the hazardous waste management
6 priorities of RCW 70.105.150; (~~and~~)

7 (xiii) During the 2009-2011 fiscal biennium, shoreline update
8 technical assistance; and

9 (xiv) During the 2009-2011 fiscal biennium, twenty-two million five
10 hundred thousand dollars must be transferred from the account and
11 deposited as follows:

12 (A) Twelve million dollars to the motor vehicle account to be used
13 as required under section 5 of this act;

14 (B) Five million five hundred thousand dollars to the Puget Sound
15 recovery account to be used as required under section 6 of this act;
16 and

17 (C) Five million dollars to the oil spill prevention account.

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

22 (a) Moneys deposited in the local toxics control account (~~shall~~)
23 must be used by the department for grants or loans to local governments
24 for the following purposes in descending order of priority:

25 (i) Remedial actions;

26 (ii) Hazardous waste plans and programs under chapter 70.105 RCW;

27 (iii) Solid waste plans and programs under chapters 70.95, 70.95C,
28 70.95I, and 70.105 RCW;

29 (iv) Funds for a program to assist in the assessment and cleanup of
30 sites of methamphetamine production, but not to be used for the initial
31 containment of such sites, consistent with the responsibilities and
32 intent of RCW 69.50.511; and

33 (v) Cleanup and disposal of hazardous substances from abandoned or
34 derelict vessels, defined for the purposes of this section as vessels
35 that have little or no value and either have no identified owner or
36 have an identified owner lacking financial resources to clean up and
37 dispose of the vessel, that pose a threat to human health or the
38 environment.

1 (b) Funds for plans and programs (~~shall~~) must be allocated
2 consistent with the priorities and matching requirements established in
3 chapters 70.105, 70.95C, 70.95I, and 70.95 RCW, except that any
4 applicant that is a Puget Sound partner, as defined in RCW 90.71.010,
5 along with any project that is referenced in the action agenda
6 developed by the Puget Sound partnership under RCW 90.71.310, (~~shall~~)
7 must, except as conditioned by RCW 70.105D.120, receive priority for
8 any available funding for any grant or funding programs or sources that
9 use a competitive bidding process. During the 2007-2009 fiscal
10 biennium, moneys in the account may also be used for grants to local
11 governments to retrofit public sector diesel equipment and for storm
12 water planning and implementation activities.

13 (c) To expedite cleanups throughout the state, the department
14 (~~shall~~) must partner with local communities and liable parties for
15 cleanups. The department is authorized to use the following additional
16 strategies in order to ensure a healthful environment for future
17 generations:

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

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

23 (B) Funding would create new substantial economic development,
24 public recreational, or habitat restoration opportunities that would
25 not otherwise occur; or

26 (C) Funding would create an opportunity for acquisition and
27 redevelopment of vacant, orphaned, or abandoned property under RCW
28 70.105D.040(5) that would not otherwise occur;

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

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

32 (4) Except for unanticipated receipts under RCW 43.79.260 through
33 43.79.282, moneys in the state and local toxics control accounts may be
34 spent only after appropriation by statute.

35 (5) Except during the 2009-2011 fiscal biennium, one percent of the
36 moneys deposited into the state and local toxics control accounts shall
37 be allocated only for public participation grants to persons who may be
38 adversely affected by a release or threatened release of a hazardous

1 substance and to not-for-profit public interest organizations. The
2 primary purpose of these grants is to facilitate the participation by
3 persons and organizations in the investigation and remedying of
4 releases or threatened releases of hazardous substances and to
5 implement the state's solid and hazardous waste management priorities.
6 No grant may exceed sixty thousand dollars. Grants may be renewed
7 annually. Moneys appropriated for public participation from either
8 account which are not expended at the close of any biennium (~~shall~~)
9 must revert to the state toxics control account.

10 (6) No moneys deposited into either the state or local toxics
11 control account may be used for solid waste incinerator feasibility
12 studies, construction, maintenance, or operation, or, after January 1,
13 2010, for projects designed to address the restoration of Puget Sound,
14 funded in a competitive grant process, that are in conflict with the
15 action agenda developed by the Puget Sound partnership under RCW
16 90.71.310.

17 (7) The department (~~shall~~) must adopt rules for grant or loan
18 issuance and performance.

19 (8) During the 2007-2009 and 2009-2011 fiscal biennia, the
20 legislature may transfer from the local toxics control account to
21 either the state general fund or the oil spill prevention account, or
22 both such amounts as reflect excess fund balance in the account.

23 (9) During the 2009-2011 fiscal biennium, the local toxics control
24 account may also be used for a standby rescue tug at Neah Bay, local
25 government shoreline update grants, private and public sector diesel
26 equipment retrofit, and oil spill prevention, preparedness, and
27 response activities.

28 (10) During the 2009-2011 fiscal biennium, forty-five million
29 dollars from the local toxics control account must be transferred to
30 the storm water account to be used as required under section 4 of this
31 act.

32 (11) During the 2009-2011 fiscal biennium, the legislature may
33 transfer from the state toxics control account to the state general
34 fund such amounts as reflect the excess fund balance in the account."

35 On page 5, after line 30 of the amendment, insert the following:

1 "NEW SECTION. Sec. 8. The department of ecology must report to
2 the appropriate committees of the legislature by December 1, 2010, on
3 the outcome of the phase 3 comprehensive scientific analysis of storm
4 water. The study is subject to approval by the legislature in the 2011
5 legislative session."

6 Renumber the remaining sections consecutively and correct any
7 internal references accordingly.

8 On page 6, beginning on line 1 of the amendment, after "act" strike
9 all material through "2010" on line 4 of the amendment and insert
10 "takes effect July 1, 2010"

11 Correct the title.

EFFECT: Changes the intent section.

Removes the additional hazardous substance tax and all related transfers.

Transfers a total of \$22.5 million from the State Toxics Control Account to the following:

\$12 million to the Motor Vehicle Account to be used as specified in the underlying bill.

\$5.5 million to the Puget Sound Recovery Account to be used as specified in the underlying bill.

\$5 million to the Oil Spill Prevention Account to be used as specified in the underlying bill.

Transfers \$45 million from the Local Toxics Control Account to the Storm Water Account created in the bill.

Requires the Department of Ecology to report to the Legislature by December 1, 2010, and the report is subject to legislative approval during the 2011 session.

Removes the immediacy language, and changes the effective date from May 1, 2010, to July 1, 2010.

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