
SENATE BILL 6285

State of Washington

65th Legislature

2018 Regular Session

By Senator Palumbo

Read first time 01/11/18. Referred to Committee on Energy,
Environment & Technology.

1 AN ACT Relating to creating the hazardous substance tax
2 stabilization act; adding a new section to chapter 70.105 RCW;
3 creating a new section; and providing an effective date.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 70.105
6 RCW to read as follows:

7 (1) It is the intent of the legislature to support and provide
8 financial reliability for local governments to implement large-scale
9 environmental clean-up construction projects managed by a single
10 local government with construction expected to span multiple
11 Washington state biennia. To this end, the legislature finds that the
12 state should contractually guarantee its agreed upon remedial action
13 grant contribution "cost-share" of large multibiennium projects in
14 the department's remedial action grants and loans program and/or
15 through additional support in the omnibus capital appropriations act.
16 This contractual guarantee must occur as provided in this section.

17 (2) Subject to the requirements of this section, the state may
18 enter a contract to guarantee its agreed upon cost-share for projects
19 in the department's remedial action grants and loans program under
20 chapter 70.105D RCW:

21 (a)(i) Simultaneously with:

1 (A) The local government and department filing the final site
2 clean-up action plan and consent decree with the court; or

3 (B) The entering of an agreed order for an interim action between
4 the local government and the department; and

5 (ii) After a detailed engineering construction cost estimate for
6 the project is finalized; and

7 (b) For clean-up projects in excess of twenty million dollars
8 that span multibiennia that are consistent with subsection (1) of
9 this section and (a) of this subsection (2), at the time the remedial
10 action grant agreement is converted to a contractual obligation, the
11 total of the state's cost-share amount must be deposited in the
12 hazardous substance tax stabilization escrow trust account created in
13 subsection (3) of this act.

14 (3)(a) The hazardous substance tax stabilization escrow trust
15 account is created in the custody of the state treasurer.
16 Expenditures from the account may only be used for eligible clean-up
17 costs under this chapter. Only the director or the director's
18 designee may authorize expenditures from the account. The account is
19 subject to allotment procedures under chapter 43.88 RCW, but an
20 appropriation is not required for expenditures.

21 (b) Funds from the hazardous substance tax stabilization escrow
22 trust account may be used for all work activities required by final
23 clean-up action plans under consent decrees and all activities
24 identified in interim action works plans under agreed orders, but
25 cannot be used to support project costs related to remedial
26 investigations, feasibility studies, preliminary environmental
27 studies, and similarly related project costs.

28 (c) For the purposes of administering cost reimbursements to the
29 grantee, the department must administer the distributions from the
30 hazardous substance tax stabilization escrow trust account consistent
31 with the applicable remedial action grant rules and pursuant to the
32 agreed upon cost-share in the consent decree or agreed order. The
33 cost-share should be consistent with past practice for state cost-
34 shares on environmental clean-up projects with local government
35 entities. In the event the project costs exceed the engineering
36 estimates used as the cost basis to fund the hazardous substance tax
37 stabilization escrow trust account, the state is required to transfer
38 from the local toxics account to the hazardous substance tax
39 stabilization escrow trust account the amount to meet the actual
40 project costs.

1 (d) The funds deposited into the hazardous substance tax
2 stabilization escrow trust account and the interest accruing on that
3 portion of the account funds must be shared equally between the state
4 and the contractee.

5 (e) Any funds distributed to the hazardous substance tax
6 stabilization escrow trust account under this section that are not
7 spent within four years, or any other negotiated time period agreed
8 upon by the state and the contractee, the department shall evaluate
9 the source of the delay and seek to expedite progress toward
10 completion of the remedial action. If the source of the delay is
11 determined to be the contractees inability or unwillingness to
12 perform the agreed-upon remedial action, the department of ecology
13 has the option of making the funds available from the hazardous
14 substance tax stabilization escrow trust account to another eligible
15 project under this chapter.

16 (4) Any contractual obligations under this section are only
17 authorized to support the implementation and capital investment in
18 the cleanup identified in the final clean-up action plan under
19 consent decree or interim action work plan under an agreed order,
20 such as construction phase costs including, but not limited to,
21 engineering design reporting, detailed engineering design,
22 permitting, construction contractor costs, construction materials
23 procurement, and construction project administration.

24 (5) The conditions, terms, duration, and state and local match
25 requirements for any contractual obligations under this section must
26 all be determined by consent decree or agreed order and should be
27 consistent with past practice for state cost-shares on environmental
28 clean-up projects with local government entities.

29 (6) Pursuant to Article I, section 23 of the Washington state
30 Constitution the contracts for funding required under this section
31 may not be impaired.

32 (7) Remedial projects eligible for funding under this section can
33 be new or prior-approved projects receiving funds from the model
34 toxics control act under chapter 70.105D RCW.

35 NEW SECTION. **Sec. 2.** This act may be referred to and cited as
36 the hazardous substance tax stabilization act.

1 NEW SECTION. **Sec. 3.** This act takes effect July 1, 2018.

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