
HOUSE BILL 1822

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67th Legislature

2022 Regular Session

By Representatives Dye, Eslick, Goehner, Robertson, Klicker, Graham, Caldier, Chambers, and Abbarno

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1 AN ACT Relating to improving Puget Sound water quality; amending
2 RCW 70A.65.100; adding new sections to chapter 90.48 RCW; adding a
3 new section to chapter 43.21A RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that the 2007
6 legislature formally established a goal for the state that the health
7 of Puget Sound be restored by 2020. The state has not yet achieved
8 this goal, as evidenced by the numerous locations within Puget Sound
9 that are listed as impaired waters that fail to meet federal water
10 quality standards. A variety of expensive hurdles remain in place
11 that have challenged the political will to succeed in cleaning up
12 Puget Sound. Primary among these hurdles are the significant volumes
13 of untreated sewage that wastewater treatment systems continue to
14 discharge into Puget Sound as a result of system failure events, and
15 the lack of infrastructure and processes to remove nutrients from
16 wastewater at treatment facilities, even where facilities are
17 functioning as intended. The department of ecology has recently
18 finalized a permit that would begin to require monitoring of nutrient
19 discharges and minor changes to begin to address the nutrient
20 discharge problem.

1 (2) Therefore, it is the intent of the legislature to expedite
2 nutrient discharge reduction activities towards the achievement of
3 nutrient-related water quality standards across Puget Sound.
4 Furthermore, in order to ensure that the costs of these water quality
5 improvements do not fall solely on local governments and utility
6 ratepayers, it is the intent of the legislature to prioritize climate
7 commitment act revenues towards nutrient discharge reductions.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 90.48
9 RCW to read as follows:

10 (1) Each operator of a municipal wastewater sewerage system that
11 discharges untreated sewage or mixtures of untreated stormwater and
12 sewage into state waters must submit a report to the department by
13 February 1st of each year, covering the discharges from the system
14 during the previous calendar year. The report submitted to the
15 department must identify the location of each discharge, the
16 estimated volume of the discharge, the measured impacts to coliform
17 levels and other water quality metrics from the pollution, and any
18 beach closures or other impacts to recreational uses of state waters
19 resulting from the discharge.

20 (2) By July 1st of each year, relying on the reports submitted to
21 the department under subsection (1) of this section, the department
22 must post on its website and submit a report to the appropriate
23 committees of the legislature consistent with RCW 43.01.036
24 summarizing the impacts of the preceding year's discharges of
25 untreated sewage into Puget Sound.

26 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.21A
27 RCW to read as follows:

28 (1) The office of Puget Sound water quality is established within
29 the department. The office of Puget Sound water quality has the
30 authority to:

31 (a) Provide technical assistance to local governments and other
32 municipal wastewater treatment system operators discharging nutrients
33 into Puget Sound in support of their efforts to reduce nutrient
34 discharges into Puget Sound;

35 (b) Identify funding opportunities, including private and
36 federal, state, and local public funds available for use for the
37 purposes of this section;

1 (c) Assist municipal wastewater treatment system operators with
2 water quality grant and loan opportunities;

3 (d) Take all appropriate steps to seek and apply for federal
4 funds for which the office of Puget Sound water quality is eligible,
5 and other grants, and accept donations, and must deposit these funds
6 in the wastewater nutrient reduction account created in section 5 of
7 this act; and

8 (e) Collaborate with the Puget Sound partnership, programs within
9 the department, and other applicable state agencies.

10 (2) Each year, the office of Puget Sound water quality is
11 responsible for making grants for municipal wastewater nutrient
12 discharge reduction projects from the amounts deposited into the
13 wastewater nutrient reduction account created in section 5 of this
14 act. The office of Puget Sound water quality must distribute funds in
15 the wastewater nutrient reduction account to fund wastewater nutrient
16 discharge reduction projects proposed by municipal wastewater
17 treatment system operators. To the extent that moneys in the account
18 in a year are not sufficient to fully fund all projects proposed by
19 system operators, the department must distribute funds with
20 prioritization given to projects that are:

21 (a) The most cost-effective at reducing nutrients in municipal
22 wastewater discharge; and

23 (b) Capable of most expeditiously achieving nutrient reductions
24 in municipal wastewater discharge.

25 **Sec. 4.** RCW 70A.65.100 and 2021 c 316 s 12 are each amended to
26 read as follows:

27 (1) Except as provided in RCW 70A.65.110, 70A.65.120, and
28 70A.65.130, the department shall distribute allowances through
29 auctions as provided in this section and in rules adopted by the
30 department to implement these sections. An allowance is not a
31 property right.

32 (2)(a) The department shall hold a maximum of four auctions
33 annually, plus any necessary reserve auctions. An auction may include
34 allowances from the annual allowance budget of the current year and
35 allowances from the annual allowance budgets from prior years that
36 remain to be distributed. The department must transmit to the
37 environmental justice council an auction notice at least 60 days
38 prior to each auction, as well as a summary results report and a
39 postauction public proceeds report within 60 days after each auction.

1 The department must communicate the results of the previous calendar
2 year's auctions to the environmental justice council on an annual
3 basis beginning in 2024.

4 (b) The department must make future vintage allowances available
5 through parallel auctions at least twice annually in addition to the
6 auctions through which current vintage allowances are exclusively
7 offered under (a) of this subsection.

8 (3) The department shall engage a qualified, independent
9 contractor to run the auctions. The department shall also engage a
10 qualified financial services administrator to hold the bid
11 guarantees, evaluate bid guarantees, and inform the department of the
12 value of bid guarantees once the bids are accepted.

13 (4) Auctions are open to covered entities, opt-in entities, and
14 general market participants that are registered entities in good
15 standing. The department shall adopt by rule the requirements for a
16 registered entity to register and participate in a given auction.

17 (a) Registered entities intending to participate in an auction
18 must submit an application to participate at least 30 days prior to
19 the auction. The application must include the documentation required
20 for review and approval by the department. A registered entity is
21 eligible to participate only after receiving a notice of approval by
22 the department.

23 (b) Each registered entity that elects to participate in the
24 auction must have a different representative. Only a representative
25 with an approved auction account is authorized to access the auction
26 platform to submit an application or confirm the intent to bid for
27 the registered entity, submit bids on behalf of the registered entity
28 during the bidding window, or to download reports specific to the
29 auction.

30 (5) The department may require a bid guarantee, payable to the
31 financial services administrator, in an amount greater than or equal
32 to the sum of the maximum value of the bids to be submitted by the
33 registered entity.

34 (6) To protect the integrity of the auctions, a registered entity
35 or group of registered entities with a direct corporate association
36 are subject to auction purchase and holding limits. The department
37 may impose additional limits if it deems necessary to protect the
38 integrity and functioning of the auctions:

39 (a) A covered entity or an opt-in entity may not buy more than 10
40 percent of the allowances offered during a single auction;

1 (b) A general market participant may not buy more than four
2 percent of the allowances offered during a single auction and may not
3 in aggregate own more than 10 percent of total allowances to be
4 issued in a calendar year;

5 (c) No registered entity may buy more than the entity's bid
6 guarantee; and

7 (d) No registered entity may buy allowances that would exceed the
8 entity's holding limit at the time of the auction.

9 (7) (a) For fiscal year 2023, upon completion and verification of
10 the auction results, the financial services administrator shall
11 notify winning bidders and transfer the auction proceeds to the state
12 treasurer for deposit as follows: (i) (~~(\$127,341,000)~~) \$27,341,000
13 must first be deposited into the carbon emissions reduction account
14 created in RCW 70A.65.240 and \$100,000,000 must first be deposited
15 into the wastewater nutrient reduction account created in section 5
16 of this act; and (ii) the remaining auction proceeds to the climate
17 investment account created in RCW 70A.65.250 and the air quality and
18 health disparities improvement account created in RCW 70A.65.280.

19 (b) For fiscal year 2024, upon completion and verification of the
20 auction results, the financial services administrator shall notify
21 winning bidders and transfer the auction proceeds to the state
22 treasurer for deposit as follows: (i) (~~(\$356,697,000)~~) \$256,697,000
23 must first be deposited into the carbon emissions reduction account
24 created in RCW 70A.65.240 and \$100,000,000 must first be deposited
25 into the wastewater nutrient reduction account created in section 5
26 of this act; and (ii) the remaining auction proceeds to the climate
27 investment account created in RCW 70A.65.250 and the air quality and
28 health disparities improvement account created in RCW 70A.65.280.

29 (c) For fiscal year 2025, upon completion and verification of the
30 auction results, the financial services administrator shall notify
31 winning bidders and transfer the auction proceeds to the state
32 treasurer for deposit as follows: (i) (~~(\$366,558,000)~~) \$266,558,000
33 must first be deposited into the carbon emissions reduction account
34 created in RCW 70A.65.240 and \$100,000,000 must first be deposited
35 into the wastewater nutrient reduction account created in section 5
36 of this act; and (ii) the remaining auction proceeds to the climate
37 investment account created in RCW 70A.65.250 and the air quality and
38 health disparities improvement account created in RCW 70A.65.280.

39 (d) For fiscal years 2026 through 2037, upon completion and
40 verification of the auction results, the financial services

1 administrator shall notify winning bidders and transfer the auction
2 proceeds to the state treasurer for deposit as follows: (i)
3 (~~(\$359,117,000)~~) \$259,117,000 per year must first be deposited into
4 the carbon emissions reduction account created in RCW 70A.65.240 and
5 \$100,000,000 must first be deposited into the wastewater nutrient
6 reduction account created in section 5 of this act; and (ii) the
7 remaining auction proceeds to the climate investment account created
8 in RCW 70A.65.250 and the air quality and health disparities
9 improvement account created in RCW 70A.65.280.

10 (e) The deposits into the carbon emissions reduction account
11 pursuant to (a) through (d) of this subsection must not exceed
12 \$5,200,000,000 over the first 16 years and any remaining auction
13 proceeds must be deposited into the climate investment account
14 created in RCW 70A.65.250 and the air quality and health disparities
15 improvement account created in RCW 70A.65.280.

16 (f) For fiscal year 2038 and each year thereafter, upon
17 completion and verification of the auction results, the financial
18 services administrator shall notify winning bidders and transfer the
19 auction proceeds to the state treasurer for deposit as follows: (i)
20 50 percent of the auction proceeds to the carbon emissions reduction
21 account created in RCW 70A.65.240; and (ii) the remaining auction
22 proceeds to the climate investment account created in RCW 70A.65.250
23 and the air quality and health disparities improvement account
24 created in RCW 70A.65.280.

25 (8) The department shall adopt by rule provisions to guard
26 against bidder collusion and minimize the potential for market
27 manipulation. A registered entity may not release or disclose any
28 bidding information including: Intent to participate or refrain from
29 participation; auction approval status; intent to bid; bidding
30 strategy; bid price or bid quantity; or information on the bid
31 guarantee provided to the financial services administrator. The
32 department may cancel or restrict a previously approved auction
33 participation application or reject a new application if the
34 department determines that a registered entity has:

35 (a) Provided false or misleading facts;

36 (b) Withheld material information that could influence a decision
37 by the department;

38 (c) Violated any part of the auction rules;

39 (d) Violated registration requirements; or

1 (e) Violated any of the rules regarding the conduct of the
2 auction.

3 (9) Any cancellation or restriction approved by the department
4 under subsection (8) of this section may be permanent or for a
5 specified number of auctions and the cancellation or restriction
6 imposed is not exclusive and is in addition to the remedies that may
7 be available pursuant to chapter 19.86 RCW or other state or federal
8 laws, if applicable.

9 (10) The department shall design allowance auctions so as to
10 allow, to the maximum extent practicable, linking with external
11 greenhouse gas emissions trading programs in other jurisdictions and
12 to facilitate the transfer of allowances when the state's program has
13 entered into a linkage agreement with other external greenhouse gas
14 emissions trading programs. The department may conduct auctions
15 jointly with linked jurisdictions.

16 (11) In setting the number of allowances offered at each auction,
17 the department shall consider the allowances in the marketplace due
18 to the marketing of allowances issued as required under RCW
19 70A.65.110, 70A.65.120, and 70A.65.130 in the department's
20 determination of the number of allowances to be offered at auction.
21 The department shall offer only such number of allowances at each
22 auction as will enhance the likelihood of achieving the goals of RCW
23 70A.45.020.

24 NEW SECTION. **Sec. 5.** A new section is added to chapter 90.48
25 RCW to read as follows:

26 (1) The wastewater nutrient reduction account is created in the
27 state treasury. All receipts consistent with RCW 70A.65.100 must be
28 deposited in the account. Moneys in the account may be spent only
29 after appropriation. Expenditures from the account may be used only
30 for grants under subsection (2) of this section to reduce nutrient
31 discharges from municipal wastewater treatment plants into state
32 waters of the Salish Sea.

33 (2) The department, relying upon the prioritized project list
34 developed by the office of Puget Sound water quality established in
35 section 3 of this act, must issue grants each year to operators of
36 municipal wastewater treatment facilities for the purpose of reducing
37 nutrients in wastewater discharges.

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