

(6) Coordinating the state's low-level radioactive waste disposal program with similar programs in other states; and

(7) Preparing an annual report to the legislature which details the manifested curie content and cubic foot volume of the material received at the Hanford low-level radioactive waste disposal facility in a manner which allows for an assessment of the impact of volume reduction techniques and imposition of any surcharges on the amount of material received.

Sec. 5. Section 7, chapter 19, Laws of 1983 1st ex. sess. as amended by section 8, chapter 161, Laws of 1984 and RCW 43.200.070 are each amended to read as follows:

The board and/or the department of ecology (~~are authorized to~~) shall adopt such rules as are necessary to carry out responsibilities under this chapter. The department of (~~social and health services~~) ecology is authorized to adopt such rules as are necessary to carry out its responsibilities under chapter 43.145 RCW.

NEW SECTION. Sec. 6. A new section is added to chapter 43.200 RCW to read as follows:

(1) The department of ecology shall perform studies, by contract or otherwise, to define site closure and perpetual care and maintenance requirements for the Hanford low-level radioactive waste disposal facility and to assess the adequacy of insurance coverage for general liability, radiological liability, and transportation liability for the facility.

(2) The department shall complete the studies and report its findings to the legislature by December 31, 1987. The department shall make a preliminary progress report to the legislature by December 31, 1986.

NEW SECTION. Sec. 7. Sections 3 and 4 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate February 13, 1986.

Passed the House February 15, 1986.

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CHAPTER 3

[Engrossed Substitute Senate Bill No. 4519]

WATER POLLUTION CONTROL FACILITIES AND ACTIVITIES—FINANCING

AN ACT Relating to the financing of water pollution control facilities and activities; re-enacting and amending RCW 82.24.260; adding a new chapter to Title 70 RCW; adding a new section to chapter 82.24 RCW; adding a new section to chapter 82.26 RCW; adding a new section to chapter 82.32 RCW; making appropriations; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The long-range health and environmental goals for the state of Washington require the protection of the state's surface and underground waters for the health, safety, use, enjoyment, and economic benefit of its people. It is the purpose of this chapter to provide financial assistance to the state and to local governments for the planning, design, acquisition, construction, and improvement of water pollution control facilities and related activities in the achievement of state and federal water pollution control requirements for the protection of the state's waters.

It is the intent of the legislature that distribution of moneys for water pollution control facilities under this chapter be made on an equitable basis taking into consideration legal mandates, local effort, ratepayer impacts, and past distributions of state and federal moneys for water pollution control facilities.

It is the intent of this chapter that the cost of any water pollution control facility attributable to increased or additional capacity that exceeds one hundred ten percent of existing needs at the time of application for assistance under this chapter shall be entirely a local or private responsibility. It is the intent of this chapter that industrial pretreatment be paid by industries and that the water quality account shall not be used for such purposes.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Account" means the water quality account in the state treasury.

(2) "Department" means the department of ecology.

(3) "Eligible cost" means the cost of that portion of a water pollution control facility that can be financed under this chapter excluding any portion of a facility's cost attributable to capacity that is in excess of that reasonably required to address one hundred ten percent of the applicant's needs for water pollution control existing at the time application is submitted for assistance under this chapter.

(4) "Water pollution control facility" or "facilities" means any facilities or systems owned or operated by a public body for the control, collection, storage, treatment, disposal, or recycling of wastewater, including but not limited to sanitary sewage, storm water, residential, commercial, industrial, and agricultural wastes, which are causing water quality degradation due to concentrations of conventional, nonconventional, or toxic pollutants. Water pollution control facilities include all equipment, utilities, structures, real property, and interests in and improvements on real property necessary for or incidental to such purpose. Water pollution control facilities also include such facilities, equipment, and collection systems as are necessary to protect federally designated sole source aquifers.

(5) "Water pollution control activities" means actions taken by a public body for the following purposes: (a) To prevent or mitigate pollution of underground water; (b) to control nonpoint sources of water pollution; (c)

to restore the water quality of fresh water lakes; and (d) to maintain or improve water quality through the use of water pollution control facilities or other means.

(6) "Public body" means the state of Washington or any agency, county, city or town, conservation district, other political subdivision, municipal corporation, quasi-municipal corporation, and those Indian tribes now or hereafter recognized as such by the federal government.

(7) "Water pollution" means such contamination, or other alteration of the physical, chemical, or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental, or injurious to the public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish, or other aquatic life.

(8) "Nonpoint source water pollution" means pollution that enters any waters of the state from any dispersed water-based or land-use activities, including, but not limited to, atmospheric deposition, surface water runoff from agricultural lands, urban areas, and forest lands, subsurface or underground sources, and discharges from boats or other marine vessels.

(9) "Sole source aquifer" means the sole or principal source of public drinking water for an area designated by the Administrator of the Environmental Protection Agency pursuant to Public Law 93-523, Sec. 1424(b).

NEW SECTION. Sec. 3. (1) The water quality account is hereby created in the state treasury. Moneys in the account may be used only in a manner consistent with this chapter. Moneys deposited in the account shall be administered by the department of ecology and shall be subject to legislative appropriation. Moneys placed in the account shall include tax receipts as provided in sections 12, 14, and 15 of this act, principal and interest from the repayment of any loans granted pursuant to this chapter, and any other moneys appropriated to the account by the legislature. All earnings from investment of balances in the water quality account, except as provided in RCW 43.84.090, shall be credited to the water quality account.

(2) The department may use or permit the use of any moneys in the account to make grants or loans to public bodies, including grants to public bodies as cost-sharing moneys in any case where federal, local, or other funds are made available on a cost-sharing basis, for water pollution control facilities and activities within the purposes of this chapter and for related administrative expenses. No more than three percent of the moneys deposited in the account may be used by the department to pay for the administration of the grant and loan program authorized by this chapter.

(3) The department shall present a progress report on the use of moneys from the account to the legislature no later than November 30th of each year.

NEW SECTION. Sec. 4. There is hereby appropriated from the general fund—state and local improvements revolving account—waste disposal and management facilities 1980 (Referendum 39) to the department of ecology an amount not to exceed twenty million dollars for the fiscal year ending June 30, 1987, or so much thereof as is required, for the following purposes:

(1) Not to exceed one million five hundred thousand dollars for planning assistance to any ground water management area created pursuant to chapter 453, Laws of 1985, provided that such assistance does not exceed fifty percent of the estimated annual cost of such planning activity, and provided that for conservation districts such assistance does not exceed seventy-five percent of the estimated cost of such planning activity.

(2) Not to exceed five hundred thousand dollars for nonpoint source pollution control activities, provided that such assistance does not exceed fifty percent of the eligible cost of any such activity, and provided that for conservation districts such assistance does not exceed seventy-five percent of the estimated cost of such planning activity.

(3) Not to exceed four million dollars to assist any aquifer protection area created pursuant to chapter 425, Laws of 1985, provided such assistance does not exceed the amount of any local revenues pledged to the activities of such district.

(4) Not to exceed five hundred thousand dollars for the acquisition of organic laboratory capability to be jointly used with the department of social and health services to test and analyze waters, including those subject to use for public drinking water supplies.

(5) Not to exceed thirteen million five hundred thousand dollars for water pollution control facilities that are determined by the department of ecology to be of highest priority for receipt of state assistance solely for design of such facilities. Such assistance shall not exceed fifty percent of the eligible cost of any such facility.

NEW SECTION. Sec. 5. (1) There is hereby appropriated to the office of financial management from the water quality account for the biennium ending June 30, 1987, the sum of one hundred fifty thousand dollars, or so much thereof as may be necessary, for the planning requirements in section 7 of this act.

(2) There is hereby appropriated to the department of ecology from the water quality account for the biennium ending June 30, 1987, the sum of two hundred fifty thousand dollars, or so much thereof as may be necessary, for the requirements in section 7 of this act.

NEW SECTION. Sec. 6. No grant or loan made in this chapter for fiscal year 1987 shall be construed to establish a precedent for levels of grants or loans made from the water quality account thereafter.

NEW SECTION. Sec. 7. (1) The office of financial management, with the assistance of the department of ecology and other appropriate state agencies and representatives of local government, shall develop a plan for state financial assistance for future water pollution control facilities and activities in conformance with the intent and purposes of this chapter. The plan shall be presented to the legislature no later than January 1, 1987, and shall include but not be limited to the following:

(a) An evaluation of the total cost to public bodies throughout the state constructing water pollution control facilities and undertaking water pollution control activities, including an identification of the federal, state, and local resources and mechanisms available to address water quality needs; the need for and appropriate level of state assistance for such facilities and activities and the appropriate level of such assistance; and an evaluation of whether such assistance should be in the form of loans, grants, or a combination thereof. The evaluation shall give consideration to the absence of conservation district taxing authority and the corresponding need for increased levels of matching loans or grants for such districts.

(b) Recommendations for the establishment of a state revolving loan fund program for water pollution control expenditures, including the terms and rate of interest to be charged on state loans.

(c) A description of criteria for the equitable distribution of state moneys based upon the intent and policies of this chapter. This element shall include a compilation of current local household sewerage rates imposed throughout the state and a forecast of future sewerage rates throughout the state based upon the costs of construction and of proper operation and maintenance of water pollution control facilities. Such forecast shall include estimates of the impact on future household sewerage rates of varying levels of state assistance.

(d) An assessment of the capacity of local entities providing sewerage services to raise the capital necessary to comply with federal and state wastewater treatment requirements and to provide proper operation and maintenance of water pollution control facilities.

(e) An evaluation of the feasibility of debt service agreement with local entities where the state would assist local jurisdictions to defray the debt service on locally issued bonds.

(f) An assessment of and recommendations for improved coordination of all water quality management activities among state agencies and between the state and local governments.

(2) The director of ecology shall report to the legislature by January 1, 1987, an evaluation of the water quality protection needs for the state, excluding the geographic area covered by the Puget Sound water quality authority's management plan for Puget Sound. The evaluation should include, but not be limited to:

(a) An assessment of future water pollution control facility needs to accommodate population and economic growth, including those facilities under compliance orders and other legal mandates. This shall include consideration of the appropriate state role in financing such needs.

(b) Incorporation of nonpoint water quality management plans generated under section 208 of the federal clean water act and the needs of public bodies for:

(i) Ground water protection planning and implementation including source protection plans for public water systems;

(ii) Control of nonpoint pollution from agriculture, urban stormwater runoff, forest practices, and on-site sewage disposal;

(iii) Shellfish protection;

(iv) Lake restoration; and

(v) Greatest reasonable reduction of combined sewer overflows.

(c) The need for revision or establishment of industrial discharge standards, including pretreatment requirements.

(d) The adequacy of monitoring and laboratory capabilities for conducting a state-wide water quality protection program.

The report shall incorporate the timetables established in RCW 90.44.400 through 90.44.440 for ground water management activities and the timetables established in RCW 90.48.460 through 90.48.490 for review of industrial discharge standards and reduction of combined sewer overflows. The report shall specify criteria for establishing priorities among various water quality needs, including an identification of key problem areas, requirements of existing state and federal legislation, an evaluation of local governments' readiness to proceed in meeting various needs, and the constraints impeding progress. In developing the evaluation, the director shall coordinate with the office of financial management and the Puget Sound water quality authority and shall consult with other appropriate state agencies.

NEW SECTION. Sec. 8. The department of ecology may provide for a phased in compliance schedule for secondary treatment which addresses local factors that may impede compliance with secondary treatment requirements of the federal clean water act.

In determining the length of time to be granted for compliance, the department shall consider the criteria specified in the federal clean water act.

NEW SECTION. Sec. 9. During the period from July 1, 1987, until June 30, 1995, the following limitations shall apply to the department's total distribution of funds appropriated from the water quality account:

(1) Not more than fifty percent for water pollution control facilities which discharge directly into marine waters;

(2) Not more than twenty percent for water pollution control activities that prevent or mitigate pollution of underground waters and facilities that protect federally designated sole source aquifers with at least two-thirds for the Spokane-Rathdrum Prairie Aquifer;

(3) Not more than ten percent for water pollution control activities that protect freshwater lakes and rivers including but not limited to Lake Chelan and the Yakima and Columbia rivers;

(4) Not more than ten percent for activities which control nonpoint source water pollution;

(5) Ten percent and such sums as may be remaining from the categories specified in subsections (1) through (4) of this section for water pollution control activities or facilities as determined by the department; and

(6) Not more than two and one-half percent of the total amounts of moneys under subsections (1) through (5) of this section from the effective date of this act until December 31, 1995, may be transferred by the department to the state conservation commission for the purposes of this chapter.

The distribution under this section shall not be required to be met in any single fiscal year.

NEW SECTION. Sec. 10. When making grants or loans for water pollution control facilities, the department shall consider the following:

(1) The protection of water quality and public health;

(2) The cost to residential ratepayers if they had to finance water pollution control facilities without state assistance;

(3) Actions required under federal and state permits and compliance orders;

(4) The level of local fiscal effort by residential ratepayers since 1972 in financing water pollution control facilities;

(5) The extent to which the applicant county or city, or if the applicant is another public body, the extent to which the county or city in which the applicant public body is located, has established programs to mitigate nonpoint pollution of the surface or subterranean water sought to be protected by the water pollution control facility named in the application for state assistance; and

(6) The recommendations of the Puget Sound water quality authority and any other board, council, commission, or group established by the legislature or a state agency to study water pollution control issues in the state.

NEW SECTION. Sec. 11. Within thirty days after June 30, 1987, and within thirty days after each succeeding fiscal year thereafter, the state

treasurer shall determine the tax receipts deposited into the water quality account for the preceding fiscal year. If the tax receipts deposited into the account in each of the fiscal years 1988 and 1989 are less than forty million dollars, the state treasurer shall transfer sufficient moneys from general state revenues into the water quality account to bring the total receipts in each fiscal year up to forty million dollars.

After June 30, 1989, if the tax receipts deposited into the water quality account for the preceding fiscal year are less than forty-five million dollars, the state treasurer shall transfer sufficient moneys from general state revenues into the water quality account to bring the total receipts up to forty-five million dollars.

NEW SECTION. Sec. 12. A new section is added to chapter 82.24 RCW to read as follows:

There is hereby levied and there shall be collected by the department of revenue from the persons mentioned in and in the manner provided by this chapter, an additional tax upon the sale, use, consumption, handling, possession, or distribution of cigarettes in an amount equal to the rate of four mills per cigarette.

The moneys collected under this section shall be deposited in the water quality account under section 3 of this act through June 30, 2021, and in the general fund thereafter.

Sec. 13. Section 7, chapter 157, Laws of 1972 ex. sess. as last amended by section 217, chapter 3, Laws of 1983 and by section 3, chapter 189, Laws of 1983 and RCW 82.24.260 are each reenacted and amended to read as follows:

Any retailer who sells or otherwise disposes of any unstamped cigarettes other than (1) a federal instrumentality with respect to sales to authorized military personnel and (2) a federally recognized Indian tribal organization with respect to sales to enrolled members of the tribe shall collect from the buyer or transferee thereof the tax imposed on such buyer or transferee by (~~RCW 82.24.020, 82.24.025;~~) this chapter and RCW 28A.47.440 and remit the same to the department after deducting from the tax collected the compensation he would have been entitled to under the provisions of this chapter and RCW 28A.47.440 if he had affixed stamps to the unstamped cigarettes. Such remittance shall be made at the same time and manner as remittances of the retail sales tax as required under chapters 82.08 and 82.32 RCW. In the event the retailer fails to collect the tax from the buyer or transferee, or fails to remit the same, the retailer shall be personally liable therefor, and shall be subject to the administrative provisions of RCW 82.24.230 with respect to the collection thereof by the department. The provisions of this section shall not relieve the buyer or possessor of unstamped cigarettes from personal liability for the tax imposed by (~~RCW 82.24.020, 82.24.025;~~) this chapter and RCW 28A.47.440.

Nothing in this section shall relieve a wholesaler or a retailer from the requirements of affixing stamps pursuant to RCW 82.24.040 and 82.24.050.

NEW SECTION. Sec. 14. A new section is added to chapter 82.26 RCW to read as follows:

(1) In addition to the taxes imposed under RCW 82.26.020, there is levied and there shall be collected a tax upon the sale, use, consumption, handling, or distribution of all tobacco products in this state at the rate of sixteen and three-fourths percent of the wholesale sales price of such tobacco products. Such tax shall be imposed at the time the distributor (a) brings, or causes to be brought, into this state from without the state tobacco products for sale, (b) makes, manufactures, or fabricates tobacco products in this state for sale in this state, or (c) ships or transports tobacco products to retailers in this state, to be sold by those retailers.

(2) The moneys collected under this section shall be deposited in the water quality account under section 3 of this act through June 30, 2021, and in the general fund thereafter.

NEW SECTION. Sec. 15. A new section is added to chapter 82.32 RCW to read as follows:

The department of revenue shall deposit into the water quality account all moneys received from the imposition on consumers of the taxes under chapters 82.08 and 82.12 RCW on the sales or use of articles of tangible personal property which become or are to become an ingredient or component of new or existing water pollution control facilities and activities, as defined in section 2 of this act, which received full or partial funding from the water quality account.

NEW SECTION. Sec. 16. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 17. Sections 1 through 11 of this act shall constitute a new chapter in Title 70 RCW.

NEW SECTION. Sec. 18. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately except sections 12 through 15 of this act shall take effect April 1, 1986.

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