

SENATE BILL REPORT

SB 6200

AS OF JANUARY 21, 1994

Brief Description: Regulating metals mining and milling operations.

SPONSORS: Senator Owen

SENATE COMMITTEE ON NATURAL RESOURCES

Staff: Vic Moon (786-7469)

Hearing Dates: January 26, 1994

BACKGROUND:

The 1993 session of the Washington State Legislature authorized the House and Senate Natural Resources Committees to establish an advisory committee on metals mining to study the issue and develop legislation for the 1994 or 1995 session. The advisory committee has met twice and the legislation has been drafted to reflect the recommendations of that committee. The statutes for metals mining have not been fully reviewed by the Legislature in the last 20 years and statutes to update existing law are necessary.

SUMMARY:

It is found to be in the interest of the state to promote a safe and environmentally secure metals mining industry. State agencies are directed to work with the mining industry to ensure practical application of statutes and rules that will guarantee the long-term viability of the industry and the integrity of the environment.

An environmental impact statement is required for any proposed metals mining or milling operation. The Department of Ecology is to be the lead agency for the environmental review and shall cooperate with all affected local governments. In addition, the Department of Ecology will consult with the Department of Fish and Wildlife to identify potential impacts to fish and wildlife and to incorporate appropriate mitigation measures into the permit requirements.

The Department of Ecology is to appoint a metals mining coordinator to track the status of any proposed metals mining project. The coordinator is to act as a contact person for the applicant and for interested members of the public, and serves as a source of expertise to the agencies involved in reviewing and permitting the proposed action.

All state agencies with the responsibility for inspecting metals mining and milling operations must conduct such

inspections at least quarterly. This includes any inspections required under the Clean Air Act, the Hazardous Waste Management Act, or the Water Pollution Control Act; any dam inspections under the Water Code; or any inspections for compliance with reclamation requirements. State agencies are encouraged to explore opportunities for cross-training of inspectors among state agencies and programs to make the inspections more efficient. State agencies are also encouraged to coordinate with federal and local government inspectors.

Standards are provided for tailings impoundments. The impoundment must have a liner and leak detection and leak collection systems, and must employ all available and reasonable methods for control of wastes. Chemical solutions should be reused, removed, or destroyed prior to placement of tailings in the tailings impoundment. Closure of the tailings impoundment must prevent future release to the environment of residual chemicals in the impoundment.

A system or plan for private citizen participation in water quality sampling must be developed. Records of all water quality tests and results should be kept on file at the relevant county to be available for inspection.

A bond is required for each metals mining and milling operation. The bond is security for compliance with respect to exploration, planning, construction, operation, reclamation, and closure, as well as 20 years of postclosure environmental monitoring. The bond also must include sufficient funding for cleanup of problems revealed during or after closure. The bond is to be executed by the Department of Ecology, in consultation with the Department of Natural Resources. Bond requirements are reviewed at least once every two years and may be adjusted for increased needs or for items no longer needed.

An applicant for a new large-scale metals mining and milling operation must conduct an analysis describing the economic impact on local governmental units. The analysis should include an estimate of the increased capital and operating costs to local governments for providing services necessary as a result of the development of the mining operation. Counties planning under the Growth Management Act are authorized to assess impact fees to address the economic impacts. Counties not planning under the Growth Management Act may negotiate with the applicant on a strategy to address economic impacts. Counties must hold public hearings on the economic impact analysis and any proposed mitigation measures. If the applicant does not submit an acceptable impact analysis, or if the county does not find the applicant's proposals acceptable, the county may refuse to issue any permits under its jurisdiction for the construction or operation for the mine or mill.

Provisions are made that any person may commence a civil action against any person or government agency who is alleged to be in violation of a standard or limitation under

Washington State law, or any person who constructs a major facility without a permit or who is in violation of any condition of the permit. Civil action may also be taken against the director of a state agency if there is an alleged failure of the director to perform any duty under state law. No action can be commenced prior to 60 days after the plaintiff has given notice of the violation to the alleged violator. The superior courts shall have jurisdiction to enforce a standard or limitation. Actions must be brought only in the judicial district in which such a source is located. The court may award costs of litigation to any party.

A moratorium is placed on metals mining and milling operations using the open pit cyanide heap leach extraction process, until the Division of Geology and Earth Resources in the Department of Natural Resources develops rules regarding this process. The rules must be reviewed by the Legislature. Metals mining using the process of in situ extraction is permanently prohibited in the state of Washington.

The Department of Ecology will work with the metals mining industry and other relevant federal and local governmental agencies to identify areas of regulatory overlap in mining and milling operations. A report detailing possible solutions shall be presented to the Legislature by January 1, 1995.

Appropriation: none

Revenue: none

Fiscal Note: requested

Effective Date: The bill contains an emergency clause and takes effect immediately.