

2 **ESHB 1810** - S COMM AMD
3 By Committee on Ways & Means

4 ADOPTED 4/14/95

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** (1) The department of ecology shall
8 establish a policy advisory committee to provide advice to the
9 legislature and the department on administrative and legislative
10 actions to more effectively implement the model toxics control act,
11 chapter 70.105D RCW. The committee shall consist of the following
12 members:

13 (a) Four legislative members selected as provided in subsection (2)
14 of this section;

15 (b) Four representatives of citizen and environmental
16 organizations;

17 (c) Four representatives of business, including two representatives
18 of small business and two representatives of large business;

19 (d) One representative of counties;

20 (e) One representative of cities;

21 (f) One representative of ports;

22 (g) One member of the scientific advisory board created under RCW
23 70.105D.030(4);

24 (h) One representative of an environmental consulting firm engaged
25 in the remediation of contaminated sites;

26 (i) Not more than three additional members selected by the
27 department from recommendations provided by the committee; and

28 (j) The directors of the departments of ecology and health or their
29 designees.

30 (2) The president of the senate and the speaker of the house of
31 representatives may each appoint one member from each major caucus in
32 the senate and the house of representatives, respectively, to serve as
33 members of the committee.

34 (3) In making appointments under subsection (1) (b), (c), (d), (e),
35 (f), (g), and (h) of this section, the department shall select from the

1 lists of recommendations submitted by recognized regional or state-wide
2 organizations representing the interests of that category.

3 (4) The initial meeting of the committee shall be scheduled no
4 later than August 1, 1995. At the initial meeting the members shall
5 select a presiding officer and adopt procedures for carrying out their
6 duties under sections 2 and 3 of this act. In conducting its review
7 the committee shall, wherever possible, operate on a consensus basis
8 and, when consensus is not possible to achieve, the committee should
9 encourage the development of recommendations that are broadly supported
10 within the committee. Where consensus is not achieved, other views
11 within the committee shall be included in any reports required by
12 sections 2 and 3 this act.

13 (5) The committee may divide itself into subcommittees. The
14 committee should seek input from people who are interested in its work
15 and who will, in the committee's view, bring experience or technical or
16 interdisciplinary insight to a thoughtful consideration of the issues
17 before the committee.

18 (6) The department shall provide staffing and other assistance to
19 the committee, including facilitators from within or outside of state
20 government if requested. Such assistance shall include information in
21 response to reasonable requests from the committee, provided that the
22 information is not protected by attorney-client privilege.

23 (7) Legislative members of the committee shall be reimbursed for
24 travel expenses as provided in RCW 44.04.120. If other members would
25 not be able to participate in the committee's activities because of
26 travel expenses or other financial limitations on the ability to
27 participate fully, the department shall certify the members as entitled
28 to reimbursement for travel expenses as provided in RCW 43.03.050 and
29 43.03.060.

30 (8) At the initial meeting attended by a committee member, the
31 member shall identify the nature of his or her interest in the outcome
32 of matters before the committee. This information shall include the
33 type of organization to which the member belongs and the general nature
34 of the membership and/or business interest of that organization.
35 Thereafter, a committee member shall disclose any potential conflicts
36 of interest or bias that subsequently arise or of which the committee
37 member subsequently becomes aware. A member shall refrain from
38 participating in any matter that the member for any reason cannot act

1 fairly, objectively, and in the public interest with regard to that
2 matter.

3 NEW SECTION. **Sec. 2.** (1) The policy advisory committee shall
4 review, provide advice, and develop recommendations on the following
5 subjects, at a minimum:

6 (a) Clean-up standards and clean-up levels, including the use of
7 site-specific risk assessment;

8 (b) Policies, rules, and procedures, including the use of cost,
9 current and future land use, and other criteria in the selection of
10 clean-up remedies;

11 (c) How the department carries out the clean-up program in
12 practice, including training, and accountability for clean-up decisions
13 and their implementation;

14 (d) Improving the clean-up process to provide additional incentives
15 to potentially liable parties to fully and expeditiously fund cleanups;

16 (e) The need for adoption of and recommended levels for
17 ecologically based clean-up standards; and

18 (f) A review of the effectiveness of independent cleanups.

19 (2) The committee shall begin meeting no later than August 1, 1995,
20 to review the model toxics control act and its implementation to date.
21 The committee is encouraged to submit recommendations on policies of
22 state-wide or regional significance to the department at any point
23 during its review. The committee shall submit a preliminary report not
24 later than December 15, 1995, to the appropriate legislative
25 committees, that identifies priority questions and issues that the
26 committee intends to address. The preliminary report shall identify
27 the schedule and approach planned for analyzing these priority issues.
28 The committee shall develop a procedure to allow other interested
29 parties to propose additional questions and issues for review. Any
30 questions and issues the committee chooses to address shall be of
31 regional or state-wide significance. It is not the intent that this
32 committee become engaged in site-specific clean-up decisions at pilot
33 projects or any other sites.

34 (3) The committee shall submit a final report to the department and
35 the appropriate legislative committees not later than December 15,
36 1996, on the priority issues it has identified for review. In addition
37 to action recommendations, the final report may identify issues and

1 priorities for further study, including a recommendation as to whether
2 the committee should continue in existence.

3 (4) The department shall assist the committee's review under this
4 section by preparing case studies of a variety of site cleanups
5 involving differing contaminants, quantities of contaminants, media
6 affected, populations exposed, present and future land and resource
7 uses, and other factors. The committee shall seek input from the
8 affected community, potentially liable persons involved in the cleanup
9 and other participants in the clean-up process at the site and include
10 this input in the information included on the case study. The case
11 studies, along with the other information gathered in the review, shall
12 be used by the committee to provide advice and develop recommendations
13 on the questions and issues addressed by the committee.

14 NEW SECTION. **Sec. 3.** (1) Not later than October 1, 1995, the
15 policy advisory committee shall select two pilot projects from a list
16 of proposed pilot project sites provided by the department. The
17 purpose of the pilot projects is to evaluate alternative methods for
18 accomplishing faster, less-expensive, and an equally protective degree
19 of cleanup at complex sites, within the framework provided by the model
20 toxics control act and the rules adopted under the model toxics control
21 act. Pilot projects shall comply with the model toxics control act and
22 the rules adopted under the model toxics control act. Public
23 participation in the clean-up process for these sites shall be as
24 provided in such rules. In order to be eligible for a pilot project,
25 a site shall be conducting remedial actions under an order, agreed
26 order, or consent decree under the model toxics control act and there
27 shall not be significant opposition from the public potentially
28 affected by the site. In addition, the following criteria shall be
29 used by the department and the committee when recommending and
30 selecting a site as a pilot project site:

31 (a) The presence of multiple parties at the site and the
32 willingness of these persons to participate in a pilot project;

33 (b) The source of contamination at the site. Sites contaminated as
34 a result of current or past industrial activities shall be given a
35 preference over other sites;

36 (c) The stage of cleanup at the site. Sites that are in the
37 process of preparing or for which there is recently completed a

1 remedial investigation/feasibility study shall be given preference over
2 other sites; and

3 (d) The degree of community support for selecting a site as a pilot
4 project site. To determine the degree of community support, the
5 department shall first consult with interested community and
6 environmental groups. Thereafter, before proposing a site as a pilot
7 project the department shall issue a public notice identifying the site
8 and seeking public comment on the potential for the site to be a pilot
9 project site.

10 (2) In the pilot projects the department shall include with the
11 remedial investigation/feasibility study required under the model
12 toxics control act any additional or alternative risk assessments or
13 other analyses that potentially liable persons may wish to prepare at
14 their expense for the purpose of exploration of improved methods to
15 accomplish cleanup under the model toxics control act. The department
16 shall provide technical assistance to identify an appropriate scope for
17 such supplemental analyses, so that the analyses may prove useful in
18 considering improvements to existing practices, policies, rules, and
19 procedures. The department may establish a reasonable schedule for the
20 preparation of any supplemental analyses. The preparation and
21 evaluation of any supplemental analyses shall not result in a delay in
22 remedial actions at the pilot sites. The analyses shall be included in
23 the remedial investigation/feasibility study regardless of whether the
24 department fully concurred in their scope. The department may
25 simultaneously prepare or commission its own supplemental analyses at
26 its own expense, as distinct from department-conducted or department-
27 commissioned or contracted technical review of supplemental analyses
28 prepared by potentially liable persons, which shall remain subject to
29 cost recovery under the model toxics control act.

30 (3) In consultation with the potentially liable persons and
31 affected public for each site, the department's site managers shall to
32 the fullest extent possible use the administrative principles set
33 forth, for both the clean-up process and for clean-up standards, as
34 well as other flexible tools available in the rules adopted under the
35 model toxics control act.

36 (4) In order to avoid misunderstanding and promote constructive
37 dialogue, the public participation plan for each site shall be designed
38 or revised to educate and involve the public on the nature of the pilot

1 project, the specific issues being explored at the site, and the
2 purpose and scope of any alternative or supplemental analyses.

3 (5) The department shall prepare a report on each pilot project
4 highlighting any policy issues raised as a result of the pilot project
5 and providing a copy of the remedial investigation/feasibility study
6 and any supplemental analyses and public comments received for each
7 pilot project to the policy advisory committee. The report shall be
8 submitted to the committee within ninety days after the comment period
9 ends on the remedial investigation/feasibility study for that site.
10 The department shall also keep the committee informed about decisions
11 made regarding the pilot project sites and progress made in
12 implementation of cleanup at these sites. The intent is for the
13 committee to use the information acquired from the pilot projects to
14 supplement other information used in developing policy recommendations
15 under section 2 of this act. The department shall submit a status
16 report to the policy advisory committee no later than March 31, 1996,
17 including an estimated schedule for reporting on each pilot project.

18 (6) Nothing in this act shall be construed to prevent or limit the
19 department from fully employing all procedures and standards available
20 under the model toxics control act or the rules adopted to implement
21 the model toxics control act with respect to any site, whether or not
22 it is being considered as a possible pilot project under this section.

23 NEW SECTION. **Sec. 4.** If specific funding for the purposes of this
24 act, referencing this act by bill number, is not provided by June 30,
25 1995, in the omnibus appropriations act, this act is null and void.

26 NEW SECTION. **Sec. 5.** This act shall expire January 15, 1997."

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28 By Committee on Ways & Means

29 ADOPTED 4/14/95

30 On page 1, line 2 of the title, after "act;" strike the remainder
31 of the title and insert "creating new sections; and providing an
32 expiration date."

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