

# HOUSE BILL REPORT

## HB 1510

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### As Reported By House Committee On:

Transportation

**Title:** An act relating to the restructuring of oil spill prevention and response programs.

**Brief Description:** Restructuring oil spill prevention and response.

**Sponsors:** Representatives K. Schmidt, Benton, Reams, Robertson, Chandler, Mitchell, Delvin and D. Schmidt.

### Brief History:

#### Committee Activity:

Transportation: 2/7/95, 2/28/95 [DPS].

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## HOUSE COMMITTEE ON TRANSPORTATION

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 18 members: Representatives K. Schmidt, Chairman; Benton, Vice Chairman; Mitchell, Vice Chairman; Skinner, Vice Chairman; Hatfield, Assistant Ranking Minority Member; Backlund; Blanton; Buck; Cairnes; Chandler; Elliot; Hankins; Johnson; Koster; McMahan; Robertson; D. Schmidt and Scott.

**Minority Report:** Do not pass. Signed by 9 members: Representatives R. Fisher, Ranking Minority Member; Brown; Chopp; Horn; Ogden; Patterson; Quall; Romero and Tokuda.

**Staff:** Jennifer Joly (786-7305).

**Background:** For the privilege of receiving crude oil or petroleum products at a marine terminal within the state of Washington, a 5-cent tax per barrel (42 gallons) is levied upon the recipient. Two cents of the barrel tax is deposited in the oil spill response account, which is made available for quick response in the event of a catastrophic spill. The oil spill response account is capped at \$25 million. When this cap is reached, the 2-cent tax is no longer imposed. However, when the account drops to \$15 million, the tax is imposed again. The remaining 3 cents of the barrel tax is deposited in the oil spill administration account. Since 1991, the administration account has funded oil spill programs in several different state agencies: the Office of Marine Safety (OMS), the Department of Ecology (DOE), the Department of Community, Trade, and Economic Development (DCTED), the University of

Washington, the Marine Oversight Board, the Department of Fisheries and Wildlife (DF&W), the State Parks Commission, the Department of Revenue (DOR), and the Department of Natural Resources (DNR).

Since the oil spill program was established, the administration account has experienced a deficit; i.e., the three cents per barrel has not been sufficient to fund appropriation levels. Consequently, in the 1991-93 biennium and the 1993-95 biennium, the deficit was addressed via transfers from the response account.

In order to begin to address the declining revenue forecast for the administration account, Governor Lowry's budget proposes that funding for the state's oil spill activities be consolidated into three lead agencies based on the components of the oil spill program: OMS for prevention activities, DOE for response activities, and DF&W for restoration activities. The Governor's proposal reduces funding to the three designated lead agencies and eliminates funding for DCTED, the State Parks Commission, and DNR. Although this consolidation will generate a savings of \$994,000 to the administration account, the remainder of the deficit is proposed to be addressed by a transfer of approximately \$1,500,000 from the response account.

The OMS was created by the Legislature in 1991 to reduce the risk of oil spills in Washington waters by promoting safe marine transportation. The principal OMS programs include: (1) vessel screening, to prioritize the inspection of high risk vessels; (2) tank vessel monitoring, including annual inspections of tank vessels and barges; (3) tank vessel prevention planning, based upon best achievable protection standards; (4) oil spill contingency plan review, to ensure capability for an effective response in the event of a spill; and (5) educational and technical assistance, with a focus on bunkering procedures.

The OMS opened a Columbia River field office in Portland, Oregon, in July 1994. The Columbia River field office is a joint venture with Oregon's Department of Environmental Quality. Office facilities and supplies for the field office have been made available by the state of Oregon. Washington provides the office's staffing (3.5 FTEs).

From its inception, the OMS has been slated to be abolished on July 1, 1997, with its powers, duties and functions to be transferred to DOE. The Legislative Budget Committee (LBC) is to prepare a report to the Legislature regarding this transfer no later than November 15, 1996.

In the event of an oil or hazardous substance spill, DOE is the head of the state incident command system responsible for coordinating the response efforts of all state and local emergency response personnel.

The Washington Wildlife Rescue Coalition (WWRC) is responsible for coordinating the rescue and rehabilitation of wildlife injured or endangered by oil spills or the release of other hazardous substances into the environment. The lead agency for operations of the coalition is the DF&W. The remaining membership of the coalition is comprised of a representative of DOE, a representative of DCTED; a licensed veterinarian with wildlife rehabilitation expertise; the director of the Washington Conservation Corps; a lay person with training and experience in the rescue and rehabilitation of wildlife, appointed by DF&W, and a person designated by the county where oil spills may occur. One of the duties of the coalition is to provide advance training and instruction to volunteers in rescuing and rehabilitating wildlife injured or endangered by oil spills.

The Washington State constitution authorizes a state militia. The state Military Department, or Washington National Guard (WNG), performs both federal and state missions. One of WNG's primary state functions is emergency response support.

**Summary of Substitute Bill:** The abolition of the Office of Marine Safety (OMS) and the transfer of its powers, duties and functions to the Department of Ecology (DOE) is effective January 1, 1996, following submittal of a plan for the consolidation by the Office of Financial Management (OFM) to the Governor.

Upon transfer of OMS to DOE, a separate division shall be established and an assistant director assigned for the purpose of oil spill prevention and response. The enabling statutes of OMS are amended and recodified in the enabling statute governing DOE. The director of DOE is authorized to establish administrative offices in various, appropriate locations within the state of Washington to carry out the oil spill program.

By December 1, 1995, the Legislative Transportation Committee (LTC) shall evaluate the appropriateness of the statutory cap amounts set for the oil spill response account.

RCW 88.46.920, requiring a Legislative Budget Committee (LBC) report to the Legislature on or before November 15, 1996, regarding the transfer of the OMS responsibilities to DOE, is repealed.

RCW 88.46.923, transferring all employees of OMS to DOE, effective July 1, 1997, is repealed.

A representative from the state Military Department (MD) is added to the Washington Wildlife Rescue Coalition (WWRC). Advance training in the rescue of oiled wildlife is provided to MD personnel to supplement the training provided to volunteers.

**Substitute Bill Compared to Original Bill:** The state Military Department (MD) is removed as the agency charged with coordinating the rescue and rehabilitation of

wildlife injured or endangered by oil spills; that function is restored to the Washington Wildlife Rescue Coalition (WWRC). A representative from the MD is added to the coalition. Advance training in the rescue of oiled wildlife is restored for volunteers, plus training for MD personnel is added.

The substitute bill adds legislative intent language to the enabling statutes of the Department of Ecology (DOE) indicating that the merger of the Office of Marine Safety (OMS) with DOE be done in such a fashion as to retain a priority focus and position for the state's oil spill prevention program. DOE is required to establish a separate division and assign an assistant director for the purpose of oil spill prevention and response. The enabling statutes of OMS are amended and recodified in the enabling statute governing DOE.

Legislative intent language is added to the substitute bill specifying that funding for oil spill prevention and response is to be segregated from funding for other DOE programs such that the oil spill administration and response accounts remain dedicated to administrative costs related to the oil spill program and response to spills, respectively.

The transfer of OMS to DOE is postponed until January 1, 1996, rather than July 1, 1995, as in the original bill, following submittal of a plan by the Office of Financial Management to the Governor detailing the functions and responsibilities of an integrated oil spill prevention and response program.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill contains several effective dates. Please refer to the bill.

**Testimony For:** Washington is the only state with separate agencies for oil spill prevention and response. The state's oil spill prevention and response policies have become confused because two agencies are developing and implementing them. The savings from this merger would allow more money to be dedicated to oil spill prevention. The Washington National Guard would be able to mobilize quickly in the event of a spill and is more reliable than an all-volunteer force.

**Testimony Against:** OMS is a nationwide model for oil spill prevention that was created in the wake of the Exxon Valdez oil spill in Alaska. A separate agency dedicated to oil spill prevention is necessary to prevent OMS's functions from getting lost in the bureaucracy of DOE. DOE is not equipped to deal with maritime safety issues. The transfer of OMS to DOE is premature; a systematic and comprehensive review by the LBC should take place first.

**Testified:** Barbara Herman, Office of Marine Safety (con); Bob Nichols, Office of the Governor (con); Edward Wenk, Jr., private citizen (con); Rick Wickman, Columbia River Steamship Operators (pro); Captain Jim Townley, Columbia River Steamship Operators (pro); Representative Rust (con); Philip McCredden, McCredden Management Associates (pro); Curt Clumpner, International Bird Rescue Research Center (con); John Lindstrom, Washington Military Department (con); Fred Felleman, Washington Environmental Council (con); David Ortman, Friends of the Earth (con); Cyreis Schmitt, Washington Department of Fish & Wildlife (con); Randy Ray, Puget Sound Steamship Operators Association (pro); Geoffry Hollwe, Makah Tribal Council (con); Steve Robinson, Northwest Indian Fisheries Commission (con); Eric Johnson, Washington Public Ports Association (pro); Jim Boldt, Port of Tacoma (pro); Andrew Palmer, American Oceans Campaign (con); Bob Magee, TOTE (con); Ron Shultz, National Audubon Society of Washington (con); Ron Wagner, Puget Sound Pilots, Columbia River Pilots and Black Ball Transit (pro); Naki Stevens, People for Puget Sound (con); Cliff Webster, Maritime Environmental Coalition (pro); Homer Frazier, Sequim citizen (con); and Vern Lindskog, Washington State Petroleum Association (neutral).