

FINAL BILL REPORT

SHB 2051

C 308 L 98

Synopsis as Enacted

Brief Description: Exempting from taxation remedies and remedial actions taken regarding hazardous waste.

Sponsors: By House Committee on Agriculture & Ecology (originally sponsored by Representatives Chandler, Linville, Regala, Mastin, D. Schmidt, Grant, Veloria, Clements, Cody and Parlette).

House Committee on Agriculture & Ecology

House Committee on Finance

Senate Committee on Agriculture & Environment

Senate Committee on Ways & Means

Background: The state Model Toxics Control Act, adopted as an initiative in 1988, requires the cleanup of contaminated sites. Sites with hazardous waste contamination must be reported to the Department of Ecology (DOE). The DOE must conduct an initial investigation of a known and reported site, followed by a site hazard assessment. If the result of the site hazard assessment shows that the site will require further cleanup action, the site is placed on the department's hazardous sites list.

At any point in the investigation and assessment process, a person may choose to conduct an independent cleanup without the DOE's oversight. When an independent cleanup is completed, the cleanup results must be reported to the DOE. Approximately 90 percent of site cleanups, mostly leaking underground storage tanks, are conducted independently.

Contractors and subcontractors conducting hazardous waste cleanup services perform a number of different activities at a cleanup site. These activities include site development such as excavation of uncontaminated soil, paving, and landscaping, and activities directly related to the cleanup, such as the removal of contaminated soil or water. Prior to 1989, some of these activities fell under one business and occupation (B&O) tax rate, other activities fell under another B&O tax rate.

In 1989, the Department of Revenue adopted a policy that exempts site cleanups from state sales tax on cleanup activities and provides a uniform B&O tax rate if certain conditions are met. However, the policy applies only to hazardous waste sites that have been placed on the DOE's hazardous sites list. Businesses contracting for cleanups at a listed site are charged the B&O tax for services at the rate of 1.75 percent (1.5 percent beginning July 1, 1998) and the sales tax on purchases of

materials, but they do not pay the sales tax on their services. Businesses contracting for cleanups that do not have DOE oversight pay a lower B&O tax rate, 0.471 percent, but pay the sales tax on both their services and their purchases of materials and labor. Special rates have been established for the taxation of clean-up activities at the Hanford site.

Summary: Labor and services provided for environmental remedial actions are exempted from retail sales taxation. The B&O tax rate for such actions is set at 0.471 percent. This uniform taxation for remedial actions applies to such actions conducted, supervised, or ordered by the Department of Ecology (DOE) under the state's Model Toxics Control Act as well as those that are, on the whole, substantially equivalent to such actions. It also applies to remedial actions conducted under the supervision or order of the U.S. Environmental Protection Agency, or consistent with the national contingency plan adopted under the federal Comprehensive Environmental Response Compensation and Liability Act and conducted at facilities included on the national priorities list or subject to a removal action under the federal act. These uniform rates are effective until July 1, 2003.

Environmental remedial actions taken at a site are eligible for these uniform tax rates if certain certifications regarding the site and the actions are submitted to the DOE and the Department of Revenue (DOR). The DOR must confirm receipt of the certifications. The owner of a site at which such activities are conducted must provide a copy of the confirmation to each person who takes remedial actions at the site and these persons must identify the charges for labor and services for their actions. When the actions are completed, the site owner must submit to the DOE a report documenting the remedial actions taken and compliance with the state act.

Certain penalties provided by other laws apply to a person who falsifies or misrepresents statements in a certification. In addition, a penalty of 50 percent of the tax due plus interest must be assessed against a person who improperly reports the person's tax class. However, the penalty is to be waived if the misreporting was due to circumstances beyond the person's control.

Votes on Final Passage:

House 93 0
Senate 49 0 (Senate amended)
House 98 0 (House concurred)

Effective: June 11, 1998
July 1, 1998 (Sections 1 through 4)
July 1, 2003 (Section 5)