

HOUSE BILL REPORT

HB 2051

As Reported By House Committee On:

Agriculture & Ecology
Finance

Title: An act relating to exempting from taxation remedies and remedial actions regarding hazardous waste.

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

Sponsors: Representatives Chandler, Linville, Regala, Mastin, D. Schmidt, Grant, Veloria, Clements, Cody and Parlette.

Brief History:

Committee Activity:

Agriculture & Ecology: 2/24/97, 2/27/97 [DPS];

Finance: 3/10/97 [DPS(AGEC)].

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Chandler, Chairman; Parlette, Vice Chairman; Schoesler, Vice Chairman; Linville, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Cooper; Delvin; Koster; Mastin; Regala and Sump.

Staff: Rick Anderson (786-7114).

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. The department 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 Department of Ecology oversight. When an independent cleanup is completed, the cleanup results must be reported to the

Department of Ecology. Currently 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 (B&O) tax rate, other activities at another B&O tax rate. In 1989, the Department of Revenue adopted a policy which 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 Department of Ecology's hazardous sites list. Currently, businesses contracting for cleanups at a listed site are charged at the B&O tax rate for services at 1.83 percent but do not pay sales tax. Businesses contracting cleanups independently are charged at the lower B&O retailing rate of 0.471 percent but do pay sales tax.

Summary of Substitute Bill: All contracted hazardous waste cleanup activities are taxed uniformly. Hazardous waste cleanup activities are exempt from sales tax if the remediation is consistent with the state Model Toxics Control Act, or other applicable laws. Remediation activities includes services related to identification, investigation, or cleanup of hazardous substances, including asbestos removal when the removal is required under the Model Toxics Control Act.

The business and occupation tax rate for all businesses contracting environmental cleanup actions is set at the rate of 0.471 percent. The owner of a property that is subject to an environmental remedial action must send written notification to the Department of Ecology and to persons who provided subcontracted services related to the cleanup.

Substitute Bill Compared to Original Bill: The substitute bill clarifies what activities are subject to the sales tax exemption and the B&O tax reduction by specifying that site development activities are eligible only if they are part of the overall cleanup. The substitute bill also removes reporting requirements to the Department of Revenue and specific penalty provisions for fraudulently claiming reduced taxes.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill is one of two bills recommended by the Model Toxics Control Act Policy Advisory Committee. There was broad support for this bill in the Policy Advisory Committee. The current tax policy for hazardous waste cleanup is discriminatory. This bill will treat all parties uniformly. A clear distinction between remediation activities and site development activities is needed.

Testimony Against: None.

Testified: Mary Burg, Department of Ecology (pro); Jerry Smedes, Washington Environmental Industry Association (pro); Eric Johnson, Washington Public Ports Association (pro); and Anne Solwick, Department of Revenue (neutral).

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill by Committee on Agriculture & Ecology be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives B. Thomas, Chairman; Carrell, Vice Chairman; Mulliken, Vice Chairman; Boldt, Assistant Ranking Minority Member; Butler; Conway; Kastama; Morris; Pennington; Schoesler; Thompson and Van Luven.

Minority Report: Do not pass. Signed by 3 members: Representatives Dunshee, Ranking Minority Member; Dickerson, Assistant Ranking Minority Member; and Mason.

Staff: Rick Peterson (786-7150).

Summary of Recommendation of Committee on Finance Compared to Recommendation of Committee on Agriculture & Ecology: No new changes are recommended.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on March 11, 1997.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: Under the current tax situation the owner of a cleanup site pays a higher tax on the cleanup activity if they clean up right away. The lower tax is available if the owner waits to be put on the designated list. Waiting may allow the contamination to spread. The tax system should not encourage delayed cleanup. This

uniform tax treatment is a recommendation of the Model Toxics Control Act Advisory Committee.

Testimony Against: None.

Testified: Representative Chandler, prime sponsor; and Dr. Jerry Smedes, Washington Environmental Industry Association.