

SENATE BILL REPORT

SB 6609

As Passed Senate, February 18, 2002

Title: An act relating to studies conducted by the department of ecology.

Brief Description: Allowing cost recovery in cases involving disputed department of ecology studies.

Sponsors: Senators Snyder, Deccio, T. Sheldon, Morton, Rasmussen, Honeyford, Hale and Hargrove.

Brief History:

Committee Activity: State & Local Government: 2/4/02, 2/6/02 [DP-WM].

Passed Senate: 2/18/02, 35-13.

SENATE COMMITTEE ON STATE & LOCAL GOVERNMENT

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Gardner, Chair; Hale, Horn, Keiser, McCaslin, Roach, T. Sheldon and Swecker.

Staff: Diane Smith (786-7410)

Background: The Department of Ecology (DOE) exercised its statutory authority to conduct a scientific study of the Willapa River, the results of which were disputed by the affected local governments. The local governments were unable to negotiate with DOE and hired a consultant to review the study. Ultimately, DOE agreed to problems with its study.

Summary of Bill: The Department of Ecology must discuss its findings with local governments affected by its studies. If DOE does not respond to the local governments' concerns, the local governments may hire a consultant to review DOE's studies. Upon a finding by the consultant that the DOE studies are flawed or conducted in an unprofessional manner, the local government may proceed in court to have the DOE study disregarded and costs, including consultant's fees and court costs, awarded to the local government.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: An error of a factor of 1,000 in salinity of Willapa Bay was not detected by DOE in the study it conducted. The worst-case assumptions of the DOE study were irrational because it was impossible for them to occur in real life. The local governments spent \$130,000 in consulting fees to detect these and other flaws in the DOE study. DOE

did not negotiate with the local governments in a reasonable manner. This is a pattern repeated in DOE relationships in Lewis County as well.

Testimony Against: This bill is a big surprise to DOE which spent four years studying Willapa Bay. All DOE studies are peer reviewed and DOE's door is always open. DOE has a problem with the Willapa issues that it needs to address, but this bill is not the answer. The background section of the bill is not truly representative because there was local participation. DOE has referred the matter to the EPA which is still reviewing it. DOE does not know if there is a factor of error of 1,000 in the DOE study.

Testified: Commissioner Pat Hamilton, Pacific City (pro); Rebecca Chaffee, City of Raymond (pro); Bryan Harrison, Pacific County DCD (pro); Dave Campbell, City of Chehalis (pro); Bill Lotto, Lewis County EDC (pro); Bill Alkive, Dave Peeler, Washington Department of Ecology.

House Amendment(s): The House amendment adds process requirements for bringing DOE into a dialog with interested parties during the study. It provides an administrative rather than a judicial forum in case of disagreements.