

SENATE BILL REPORT

SSB 5787

As Passed Senate, March 18, 2003

Title: An act relating to the use of a leaching test in state water quality certifications.

Brief Description: Protecting water quality.

Sponsors: Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators Morton, Prentice, Hale, Jacobsen, Kohl-Welles, Hewitt, Doumit and Horn).

Brief History:

Committee Activity: Natural Resources, Energy & Water: 2/21/03, 2/27/03 [DPS].
Passed Senate: 3/18/03, 37-12.

SENATE COMMITTEE ON NATURAL RESOURCES, ENERGY & WATER

Majority Report: That Substitute Senate Bill No. 5787 be substituted therefor, and the substitute bill do pass.

Signed by Senators Morton, Chair; Hewitt, Vice Chair; Doumit, Hale, Hargrove, Honeyford, Oke and Regala.

Staff: Genevieve Pisarski (786-7488)

Background: The Department of Ecology is the state water pollution control agency responsible for implementing all state and federal water pollution control laws and regulations. This includes providing certification that permits issued by federal agencies comply with water quality standards, according to section 401 of the federal Clean Water Act.

Summary of Bill: For purposes of issuing water quality certifications under section 401 of the federal Clean Water Act and administrative orders under state law, the Department of Ecology is authorized to require use of a valid and reliable leaching test, including method 1312 from Environmental Protection Agency publication SW-846 (the synthetic precipitation leaching procedure), to evaluate the suitability of fill material that will be placed in waters of the state. Any such requirement by the department in the past is ratified and approved as a valid and reliable method for determining that concentrations of chemicals in fill material do not pose an unacceptable risk of violating water quality standards and is in effect as imposed by the department for all work not completed by June 1, 2003.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The synthetic precipitation leaching procedure is included in federal and state water quality rules. It is used to determine what chemicals will leach out of fill material, so that the effect on water quality can then be measured. No contaminated soil is allowed to be used as fill for the third runway project; the procedure will be used on naturally-occurring soils to determine whether they will leach any chemicals, which will then be tested to determine that they will not violate water quality standards, before the fill is used.

Testimony Against: The decision of the Pollution Control Hearings Board regarding the procedure should be allowed to be judged by the courts; the rules should not be changed before appeals are completed. The procedure is not sufficiently sensitive or accurate to detect chemicals of concern. Contaminated soil and soil that will violate water quality standards will be able to be used.

Testified: Stuart Creighton, Airport Communities Coalition (con); Susan White, City of Des Moines (con); Kevin Stock, Airport Communities Coalition (con); Jim Bartlemay (con); Len Oebser (con); Brett Fish, Frank Jovanovich, CASE (con); Sally Neary, Sierra Club (con); D. Meyers (con); Becky Stanley, Sierra Club (con); Eric Johnson, WA Public Ports Assn. (pro); Dr. Teri Floyd, Floyd, Snider, McCarthy (pro); Gina Marie Lindsay, Linda Strout, Port of Seattle (pro); Gil Reavus, Brown, Reavis and Manning (pro); Kathleen Quong-Vermere (con); H. Cal Witte (con); Audrey H. Richter (con); Chas. Talbot (con); Jim Pendowski, Ann Kenney, Dept. of Ecology; Anthony J. Murrietta, Teamsters Local 174/King County Labor Council (pro); Larry Archer, International Union of Operating Engineers (pro); Stephanie Bowman, Greater Seattle Chamber of Commerce (pro); Darlene Schanfald, Olympic Environmental Council (con); Dennis Robertson (con); Brenda Buchanan, Sally Neary, Sierra Club (con); Dan Caldwell, Highline Water (con); Tom Newlon, Stoel Rives (pro).

House Amendment(s): The House amendments describe the leaching test with reference to leaching tests included in regulations adopted under the state Model Toxics Control Act, rather than with reference to federal Environmental Protection Agency methodologies, and add a new section that requires the Department of Ecology to identify and assess the effectiveness of leaching tests for evaluating impacts of imported fill material, and to report the test list and any methodology gaps to the Legislature by December 31, 2003. An emergency clause is also added.