

HOUSE BILL REPORT

SHB 1761

As Amended by the Senate

Title: An act relating to expediting the cleanup of hazardous waste and creating incentives for Puget Sound cleanups.

Brief Description: Accelerating the cleanup of Puget Sound and hazardous waste and waste sites in the state.

Sponsors: By House Committee on Capital Budget (originally sponsored by Representatives Linville, Hunter, Priest, Hunt, B. Sullivan, Upthegrove, Kessler, Sump, Hankins, Jarrett, Fromhold, Appleton, Rolfes, Darneille, Campbell, Conway, Green, O'Brien, Schual-Berke, Simpson, Ormsby and Chase).

Brief History:

Committee Activity:

Select Committee on Environmental Health: 2/8/07, 2/15/07 [DP];

Capital Budget: 3/1/07, 3/2/07 [DPS].

Floor Activity:

Passed House: 3/12/07, 95-0.

Senate Amended.

Passed Senate: 4/10/07, 48-0.

Brief Summary of Substitute Bill

- Requires the Department of Ecology (DOE) to develop a ten-year financing report that identifies the biennial toxic site remedial needs, and project the cleanup cost, revenue, and any recommended working capital reserve.
- Amends the Local Toxics Control Account to require DOE to partner with local communities and liable parties for remedial actions to expedite cleanups throughout the state, through the addition of certain criteria.

HOUSE SELECT COMMITTEE ON ENVIRONMENTAL HEALTH

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: Do pass. Signed by 9 members: Representatives Campbell, Chair; Hudgins, Vice Chair; Newhouse, Ranking Minority Member; Sump, Assistant Ranking Minority Member; Chase, Hailey, Hunt, Morrell and Wood.

Staff: Brad Avy (786-7289).

HOUSE COMMITTEE ON CAPITAL BUDGET

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 22 members: Representatives Fromhold, Chair; Ormsby, Vice Chair; Schual-Berke, Vice Chair; McDonald, Ranking Minority Member; Newhouse, Assistant Ranking Minority Member; Blake, Chase, Dunshee, Eickmeyer, Flannigan, Goodman, Hankins, Hasegawa, Kelley, McCune, Orcutt, Pearson, Pedersen, Sells, Skinner, Strow and Upthegrove.

Staff: Alicia Dunkin (786-7178).

Background:

In 1988, the citizens of the state of Washington created by initiative the Model Toxics Control Act (MTCA). The primary purpose of the MTCA is to raise sufficient funds to clean up all hazardous waste sites and to prevent the creation of future hazards due to improper disposal of toxic wastes into the state's land and waters.

The MCTA includes a tax on the wholesale value of hazardous substances, which includes a list of over 8,000 different substances, such as petroleum products, pesticides and certain chemicals. Of the total receipts, 47.1 percent is allocated to the State Toxics Control Account (STCA) for cleanup of hazardous waste sites and related planning and regulation activities. The remaining 52.9 percent of the revenues go to the Local Toxics Control Account (LTCA) for use as grants or loans to local governments for hazardous and solid waste programs and for cleanup of hazardous waste sites.

Summary of Substitute Bill:

The Department of Ecology (DOE) is required to prioritize sufficient funding to clean up hazardous waste sites and prevent the creation of future hazards due to improper disposal of toxic wastes. The DOE must develop a comprehensive ten-year financing report that identifies long-term remedial action project costs, tracks expenses, and projects future needs. The DOE must accelerate clean-up efforts throughout Washington, and create financing tools to clean up large-scale hazardous waste sites requiring multiyear commitments. Before December 20 of each even-numbered year, the DOE must:

- develop a ten-year financing report in coordination with all local governments with clean-up responsibilities that identifies the projected biennial toxic site remedial action needs that are eligible for funding from the LTCA;
- work with liable local governments to develop working capital reserves to be incorporated in the ten-year financing report;

- identify the projected remedial action needs for orphaned, abandoned, and other clean-up sites that are eligible for funding from the STCA;
- project the remedial action need, cost, revenue, and any recommended working capital reserve estimate to the next biennium's long-term remedial action needs from both the LTCA and the STCA;
- submit this information to the appropriate standing fiscal and environmental committees of the Senate and House of Representatives (submittal must also include a ranked list of remedial action projects for both accounts); and
- provide the Legislature and the public each year with an accounting of the DOE's activities supported by appropriations from the state and local toxics control accounts, including a list of:
 - known hazardous waste sites and their hazard rankings;
 - actions taken and planned at each site;
 - how the DOE is meeting its waste management priorities; and
 - all funds expended.

To expedite cleanups throughout the state, the DOE must partner with local communities and liable parties for cleanups. The DOE is authorized to use the following additional strategies in order to ensure a healthful environment for future generations:

- the Director of the DOE may alter grant-matching requirements to create incentives for local governments to expedite cleanups when one of the following conditions exists:
 - funding would prevent or mitigate unfair economic hardship imposed by the clean-up liability;
 - funding would create new substantial economic development, public recreational, or habitat restoration opportunities that would not otherwise occur; or
 - funding would create an opportunity for acquisition and redevelopment of vacant, orphaned, or abandoned property that would not otherwise occur;
- the use of outside contracts to conduct necessary studies; and
- the purchase of remedial action cost-cap insurance, when necessary to expedite multiparty clean-up efforts.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment moves Section 1(7) to Section 2, makes technical changes for consistency, and deletes reference to the Department of Ecology accelerating clean up efforts throughout Washington.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: (Select Committee on Environmental Health)

(In support) There is a need to protect toxics site cleanup account funds for core toxics cleanup activities and to moderate effects of the high variability of account balances that result from fluctuating gas prices. The tendency over the years has been to fund a range of natural resource programs not core to toxics site cleanup. There is no intent to diminish the use of funds for solid and hazardous waste prevention. Bond ratings may improve if there is a more stable and dependable funding source for long-term, major projects.

(With concerns) There may not be a problem that requires fixing. Toxics cleanup account money may be tied up and result in fewer cleanups. The volatility of the account may not be addressed. It is important to maintain flexibility to respond to future legislative priorities. The account should be protected, but if funds are not available for storm water or other uses the Legislature will need to find another source. Not sure where this takes us in the future. There are other uses of the fund like hazardous waste and solid waste prevention. Capping the fund may limit opportunities for these activities in the future which may mean more sites to clean up. You may want to consider increasing the tax, rather than how to divide up the accounts.

Staff Summary of Public Testimony: (Capital Budget)

(In support) The bill requires the Department of Ecology to develop a 10-year financing report, just like what is done in the Transportation budget, that identifies the toxic site remedial needs, project the cleanup cost, and to project a working capital reserve. This is a great opportunity to add accountability for the funds as they are volatile and used by Ecology to fund the clean-up of hazardous waste sites. Major oil companies pay 90 percent of the Model Toxics Control Act (MTCA) revenue. The intent of those funds is to dedicate them to clean-up and we are concerned about attempts to use the funds in the accounts for different purposes. The MTCA is pressured for purposes for which it was intended and we think this bill has a long-term planning component so we know what is coming on the horizon and having a working capital reserve estimate will ameliorate the volatility of the accounts.

Persons Testifying: (Select Committee on Environmental Health) (In support) Eric Johnson, Washington Public Ports Association; Mike Stoner, Port of Bellingham; Steve Zemke, Taxpayers for Washington's Future, and Greg Hanon, Western States Petroleum Association.

(With concerns) Pat Mc Lain, Department of Ecology; Bruce Wishart, People For Puget Sound; Suellen Mele, Washington Citizens for Resources Conservation. and Dave Williams, Association of Washington Cities.

Persons Testifying: (Capital Budget) (In support) Representative Linville, prime sponsor; Eric Johnson, Washington Public Ports Association; Larry Paulson, Port of Vancouver; Greg Hanon, Washington State Petroleum Association; and Ted Sturdevant, Department of Ecology.

(Opposed) None.

Persons Signed In To Testify But Not Testifying: (Select Committee on Environmental Health) None.

Persons Signed In To Testify But Not Testifying: (Capital Budget) None.