

# HOUSE BILL REPORT

## HB 2107

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**As Reported by House Committee On:**  
Agriculture & Natural Resources

**Title:** An act relating to innovative settlement agreements.

**Brief Description:** Authorizing the use of innovative settlement agreements in lieu of appeal for violations of chapters 90.48 and 90.56 RCW.

**Sponsors:** Representatives Schual-Berke, B. Sullivan, Blake, Newhouse, Dickerson, Strow, Kagi, Orcutt, McCoy, Cody and VanDeWege.

**Brief History:**

**Committee Activity:**

Agriculture & Natural Resources: 2/22/07, 2/26/07 [DPS].

### Brief Summary of Substitute Bill

- Authorizes the Department of Ecology to consider the option of an innovative settlement agreement in lieu of appeal for violations of water quality laws.
- Creates requirements for innovative settlement agreements and the projects associated with innovative settlement agreements.

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## HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives B. Sullivan, Chair; Blake, Vice Chair; Kretz, Ranking Minority Member; Warnick, Assistant Ranking Minority Member; Dickerson, Eickmeyer, Grant, Hailey, Kagi, Lantz, McCoy, Newhouse, Orcutt, Strow and VanDeWege.

**Staff:** Jaclyn Ford (786-7339).

### Background:

When a party is charged with violating water pollution laws, or the oil and hazardous substance spill laws, they are given the option of paying a fine or appealing the fine to the Pollution Control Hearings Board (PCHB). If the case is appealed, the Attorney General's

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Office becomes the primary point of contact between the parties. All appealed cases are assigned to a specific Assistant Attorney General.

If the party chooses to appeal the violation, the Department of Ecology (DOE) may try to settle the case and prevent a formal hearing. Settlements usually fall under two categories: traditional and innovative. Settlements that simply reduce a penalty or revise an order to avoid litigation are considered traditional. Innovative settlements may divert assessed penalty amounts to an approved project. All innovative settlement projects must be mutually agreed upon. Once the settlement has been fully executed, the Assistant Attorney General will request that the appeal be dismissed. If no settlement is reached, the case will have a formal hearing.

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### **Summary of Substitute Bill:**

The DOE may consider innovative settlement in lieu of appeal for violators of water pollution laws, and oil and hazardous substance spill laws. However, if the violator denies innovative settlement and proceeds with an appeal, the DOE may still enter into innovative settlement agreements after the appeals process has begun.

Innovative settlement agreements in lieu of an appeal must meet certain procedural criteria. The request for an innovative settlement agreement from the violator must be made within 30 days of receipt of notice. Also, the innovative settlement must be agreed upon within 90 days after beginning the settlement process.

Once agreed upon, the innovative settlement project must meet eight standards, including: completion within two years, location of the project within the same watershed as the violation, and 20 percent of the penalty money deposited into the Coastal Protection Fund.

### **Substitute Bill Compared to Original Bill:**

This bill replaces "offer" with "consider" in relation to the Department of Ecology's authorization to "consider" innovative settlement in lieu of appeal. This bill removes language outlining the options for the violator after choosing not to enter into an innovative settlement.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

### **Staff Summary of Public Testimony:**

(In support) Innovative settlement has great checks and balances in the DOE and helps organizations that want to help fix problems within their own communities. Innovative

settlement can be a useful tool to improving environmental conditions and promotes favorable results within the local watershed.

(Opposed) None.

**Persons Testifying:** (In support) Representative Schual-Berke, prime sponsor; Melodie Selby, Department of Ecology; and Jack Field, Washington Cattlemen's Association.

**Persons Signed In To Testify But Not Testifying:** None.