

SENATE BILL REPORT

SHB 1761

As Reported By Senate Committee On:
Water, Energy & Telecommunications, March 30, 2007
Ways & Means, April 2, 2007

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

Brief Description: Regarding cleanup of hazardous waste.

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

Committee Activity: Water, Energy & Telecommunications: 3/28/07, 3/30/07 [DPA-WM].
Ways & Means: 4/02/07 [DPA(WET)].

SENATE COMMITTEE ON WATER, ENERGY & TELECOMMUNICATIONS

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

Signed by Senators Poulsen, Chair; Rockefeller, Vice Chair; Honeyford, Ranking Minority Member; Delvin, Fraser, Holmquist, Marr, Morton, Oemig, Pridemore and Regala.

Staff: Jan Odano (786-7486)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended by Committee on Water, Energy & Telecommunications.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Carrell, Fairley, Hatfield, Hobbs, Honeyford, Keiser, Kohl-Welles, Oemig, Parlette, Rasmussen, Regala, Roach, Rockefeller, Schoesler and Tom.

Staff: Kirstan Arestad (786-7708)

Background: Initiative 97, the Model Toxics Control Act (MTCA), was adopted by Washington voters in November 1988. It establishes a liability and cleanup scheme for sites contaminated with hazardous wastes or hazardous substances.

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.

The main purpose MTCA is to raise sufficient funds to cleanup all hazardous waste sites; to prevent the creation of future hazards due to improper disposal of toxic wastes into the state's land and waters; and to promote the cleanup and reuse of contaminated properties. MTCA activities are funded by a hazardous substance tax imposed on the possession of hazardous substances; recovered costs of remedial actions; penalties; and funds appropriated or transferred to the state toxics control account by the Legislature. The primary source of funding is the hazardous substance tax on petroleum products, pesticides, and certain chemicals.

The money collected is placed in the state toxics control and local toxics control accounts. The funds from the state toxics control account may be used by the Departments of Ecology (Ecology), Health, Agriculture, and the Washington State Patrol for activities including: hazardous waste planning, solid waste planning management, and a hazardous waste cleanup program; safe reduction, recycling, or disposal of hazardous wastes from households, small businesses, and agriculture; hazardous materials emergency response training; and water and environmental health protection and monitoring programs.

The local toxics control account is funded solely by the hazardous substances tax and is used to provide grants to local governments and public entities. The grants are used to cleanup contaminated sites, manage solid and hazardous waste, and assist in the assessment and cleanup of sites of methamphetamine production.

Summary of Substitute Bill: Ecology must prioritize sufficient funding to cleanup hazardous waste sites and prevent the creation of future hazards due to improper disposal of toxic wastes. Ecology must accelerate cleanup efforts and create financing tools to cleanup large scale hazardous waste sites requiring multi-year commitments.

To monitor toxic accounts expenditures, Ecology must develop a comprehensive ten-year financing report that identifies long-term remedial action project costs, tracks expenses, and projects future needs. By December 20 of each even-numbered year, Ecology must: develop the financing report, in coordination with all local governments with cleanup responsibilities, that identifies the projected biennial toxic site remedial action needs eligible for funding from the local toxics control account; work with liable local governments to develop working capital reserves to be incorporated in the ten-year financing report; identify projected remedial action needs for orphaned, abandoned, and other cleanup sites eligible for funding from the state toxics control account; and 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 state and local toxic control accounts.

Every year, Ecology must provide the Legislature and the public an accounting of its activities supported by appropriations from the state and local toxics control accounts, which must include a list of known hazardous waste sites and their hazard rankings, actions taken and planned at each site, and how it is meeting its waste management priorities. In addition, Ecology must provide the legislative fiscal committees with information about the projected remedial action needs, costs, revenue, and any recommended working capital reserve estimates to the next biennium's long-term remedial action needs from both state and local toxic control accounts.

Ecology's existing statutory authority is clarified for partnering with local communities and liable parties for cleanups to expedite cleanups throughout the state. Ecology may alter grant-matching requirements to create incentives for local governments when funding would: prevent or mitigate unfair economic hardship imposed by the cleanup liability; create new substantial economic development, public recreational, or habitat restoration opportunities that would not otherwise occur; or create an opportunity for acquisition and redevelopment of vacant, orphaned, or abandoned property. In addition, Ecology may use outside contracts to conduct necessary studies and purchase remedial action cost-cap insurance when necessary to expedite multiparty cleanup efforts.

EFFECT OF CHANGES MADE BY RECOMMENDED AMENDMENT(S) AS PASSED COMMITTEE (Water, Energy & Telecommunications): Substantive language from the intent section is moved to the policy section and makes minor technical changes for consistency.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony (Water, Energy & Telecommunications): PRO: MTCA funds are used for cleanup and prevention. Ecology manages the fund and cleanup without fluctuations in staff. When there is more money in the fund, more grants are provided for cleanups. Every dollar of MTCA is granted out for cleanup and remedial actions. There are challenges with using the funds from MTCA as it is very volatile because it is tied to the price of petroleum products. Cleanups are bigger and more complicated. For local jurisdictions cleanups become public works projects. The bill provides tools to assist with the budget and to have a more informed budgeting process. This process provides more information and transparency.

Persons Testifying (Water, Energy & Telecommunications): PRO: Eric D. Johnson, Washington Public Ports Association; Greg Hanon, Western States Petroleum Association; Cullen Stephenson, Department of Ecology; Mo McBroom, Washington Environmental Council.

Staff Summary of Public Testimony (Ways & Means): None.

Persons Testifying (Ways & Means): No one.