

SENATE BILL REPORT

SB 5553

As Reported By Senate Committee On:
Water, Energy & Telecommunications, February 23, 2007

Title: An act relating to protecting all of Washington's waters by enhancing the state's oil spill program.

Brief Description: Enhancing the state's oil spill response program.

Sponsors: Senators Spanel, Fraser, Rockefeller, Poulsen, Haugen, Regala, Tom, Kohl-Welles, Kline, Oemig and Keiser.

Brief History:

Committee Activity: Water, Energy & Telecommunications: 2/09/07, 2/23/07 [DP-WM, DNP, w/oRec].

Ways & Means: 3/02/07.

SENATE COMMITTEE ON WATER, ENERGY & TELECOMMUNICATIONS

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

Signed by Senators Poulsen, Chair; Rockefeller, Vice Chair; Fraser, Marr, Oemig, Pridemore and Regala.

Minority Report: Do not pass.

Signed by Senators Honeyford, Ranking Minority Member; Delvin and Holmquist.

Minority Report: That it be referred without recommendation.

Signed by Senator Morton.

Staff: Sam Thompson (786-7413)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Dean Carlson (786-7305)

Background: Oil Spill Advisory Council: In 2005, the Legislature created the Oil Spill Advisory Council (Council), made up of representatives of diverse stakeholder groups. The Council submitted a report to the Legislature in 2006 outlining long-term funding proposals for oil spill prevention, preparedness, and response.

Current Oil Spill Funding: Many of the Department of Ecology's (DOE) oil spill-related duties are funded through two taxes on the receipt of crude oil at a marine terminal. The Oil

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.

Spill Response Tax (Response Tax) is levied at the rate of one cent per barrel and the Oil Spill Administration Tax (Administration Tax) is levied at the rate of four cents per barrel. A credit is allowed against these taxes for crude oil subsequently exported from or sold for export from the state.

Revenue from the Response Tax and Administration Tax is deposited in separate accounts, both funding various DOE activities. The Administration Tax is deposited into the Oil Spill Prevention Account (Prevention Account), funds from which may be used for activities related to preventing oil spills, including vessel plan reviews and public outreach.

The Response Tax is deposited into the Oil Spill Response Account (Response Account), funds from which pay for costs associated with responding to crude oil spills. The Department of Revenue (DOR) suspends collection of the Response Tax if the Response Account has a balance greater than \$9 million.

Derelict Vessels: The Derelict Vessel Removal Account (Derelict Vessel Account) may receive gifts, grants, and endowments for removal of abandoned or derelict vessels under a program administered by the Department of Natural Resources. If the Derelict Vessel Account balance reaches \$1 million as of March 1st of any year, collection of fees associated with the account must be suspended for the following fiscal year.

Rescue Tug: Until the end of fiscal year 2008, 16.6 percent of certain motor vehicle certification fees is dedicated to a Vessel Response Account. DOE uses Vessel Response Account moneys to fund placement of a rescue tug near the mouth of the Strait of Juan de Fuca. After the end of fiscal year 2008, the portion of vehicle certification fees reserved to fund a rescue tug lapse into an account managed by the Department of Transportation for road construction.

Summary of Bill: Tug Programs: DOE is required to conduct two tug programs. The first program is a contingency tug program requiring DOE to enter into contracts that allow it to place rescue or response tugs in strategic locations. The second program requires DOE to enter into a contract providing for a permanently stationed, year-round rescue tug in the western Strait of Juan de Fuca. DOE must give rescue tug contracting preference to vessels capable of operating in extreme weather and of providing spill response, firefighting, and early salvage activities.

Changes in Oil Spill Funding: Changes are made in collecting both the Administration Tax and the Response Tax. The credit for crude oil subsequently exported from or sold for export from the state is repealed. The provision requiring DOR to stop collecting the Response Tax if the Response Account has a balance greater than \$9 million is deleted. Both the Administration Tax and the Response Tax will increase by the Initiative 601 fiscal growth factor at the end of each fiscal biennium.

A new tax, the Risk-Based Oil Spill Prevention and Response Service Transfer Tax (Transfer Tax), is levied against the transfer of any refined oil product from or to a vessel that is located on, over, or near the waters of the state. The Transfer Tax is collected by DOR and levied at a rate of five cents per barrel. Like the taxes on crude oil, the Transfer Tax will also increase by the Initiative 601 fiscal growth factor at the end of each fiscal biennium. Transfer Tax revenue must be deposited into the Prevention Account.

Changes in Account Management: When the Response Account balance reaches \$9 million, instead of suspending Response Tax collection, additional revenue above \$9 million will be transferred to the Prevention Account.

The Prevention Account will receive Transfer Tax revenue, all legislative appropriations funding oil spill management, and funds over \$9 million in the Response Account.

Prevention Account expenditures may include funding for the contingency tug program, rescue tug, Council activities, and transfers to Derelict Vessel Account. The first \$1 million available from the Prevention Account each biennium must fund the contingency tug program.

Derelict Vessels: The Derelict Vessel Account may receive transfers from the General Fund and Response Account. The Derelict Vessel Account balance will not include fund transfers from the General Fund or Prevention Account in calculating the \$1 million benchmark for suspending collection of fees associated with the account.

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: PRO: This bill reflects the recommendations of the Oil Spill Advisory Council and is the product of rigorous review and analysis. The proposed risk-based Transit Tax would be imposed at a very low rate, less than one-tenth of a cent per gallon. Washington needs the rescue tugs that this bill facilitates, which should logically be funded by shippers and oil companies. The proposed Neah Bay rescue tug should be the number one priority. The Derelict Vessel Program is currently underfunded and needs the funding that this bill facilitates; removal of even a single vessel can cost millions of dollars. The state cannot afford the damage of a severe oil spill, which could ruin both water quality and the state's reputation as a source of healthy fish and shellfish. There have been too many "close calls" involving potential oil spills.

CON: Elimination of the export tax credit may violate federal constitutional Commerce Clause standards prohibiting states from enacting legislation that improperly burdens interstate commerce. The proposed new Transit Tax is not truly risk-based. Commitment of tax revenue to funds other than the Motor Vehicle Fund may violate the state constitutional provision mandating that motor vehicle fuel taxes be used exclusively for highway purposes. The tax proposals lack equity and balance and create administrative problems. Response tugs are called out for other reasons than to rescue oil tankers, and should be funded by the generality of taxpayers. Washington has a very low record of oil spills, and these proposals do not recognize the safety improvements achieved by oil transporters since the wreck of the Exxon Valdez in 1989.

Persons Testifying: PRO: Jacqui Brown Miller and Brett Bishop, Oil Spill Advisory Council; Mike Doherty, Clallam County; Dave Somers, Snohomish County; Doug Levy, City of Renton; Bruce Wishart, People for Puget Sound; Gerald Joyce, Audubon Society; Miguel

Perez-Gibson, Puget Soundkeeper Alliance; Fred Felleman, citizen; Michael Racine, Washington Scuba Alliance; Nick Jones, Puget Sound Harvesters; Steve Robinson, Northwest Indian Fisheries Commission; Gordon Baxter, Inland Boatmens' Union.

CON: Greg Hanon, Western States Petroleum Association; Mike Moore, Pacific Merchant Shipping Association and Oil Spill Advisory Council; Rich Berkowitz, Transportation Institute.