

SENATE BILL REPORT

SB 6070

As Amended by House, April 14, 2009

Title: An act relating to disposal of dredged riverbed materials from the Mt. St. Helen's eruption

Brief Description: Regarding disposal of dredged riverbed materials.

Sponsors: Senator Hatfield.

Brief History:

Committee Activity: Natural Resources, Ocean & Recreation: 2/23/09, 2/25/09 [DP-WM].

Ways & Means: 2/27/09, 3/02/09 [DP, DNP].

Passed Senate: 3/11/09, 46-2.

Passed House: 4/14/09, 90-7.

SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

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

Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton, Ranking Minority Member; Hargrove, Hatfield, Stevens and Swecker.

Staff: Sherry McNamara (786-7402)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Prentice, Chair; Tom, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Carrell, Hewitt, Hobbs, Honeyford, Keiser, Kline, Kohl-Welles, Murray, Oemig, Parlette, Pridemore, Regala, Rockefeller and Schoesler.

Minority Report: Do not pass.

Signed by Senator Fraser, Vice Chair, Capital Budget Chair, McDermott.

Staff: Maria Hovde (786-7710)

Background: Generally, any person may apply to remove valuable materials such as sand, rock, and gravel from state-owned beds of navigable waters. The Department of Natural Resources (DNR) may approve such applications if it determines that such removal is in the best interest of the state. Such removal is subject to a royalty, which is paid to DNR.

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.

DNR may determine the royalty by negotiation, sealed bid, or through public auction. However, DNR must consider the flood protection value to the public when establishing a royalty.

Landowners who sold dredge spoils removed from the state-owned beds and shores of the Toutle River, Coweeman River, and a portion of the Cowlitz River between 1980 and 1995 were exempted from DNR's royalty on valuable materials.

Summary of Bill: The exemption for paying a charge to DNR for selling, transferring, or disposing of dredge spoils is extended to 2035.

Appropriation: None.

Fiscal Note: Requested on February 20, 2009.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony (Natural Resources, Ocean & Recreation): PRO: Historically, the Department of Transportation was responsible for acquiring sites for depositing the dredge spoils along the Cowlitz River. This year, the county has been tasked with finding the disposal sites. One of the stumbling blocks for this process has been DNR's establishment of the royalties. There isn't a value to the dredge materials because the transportation costs for moving the sand to another location is too expensive. The Lower Cowlitz River needs the U.S. Army Corps of Engineers to continue the dredging for flood protection. It is critical to find property owners who are willing to accept the dredge materials in this area; removing the royalty fee to DNR is one way to get the property owners to agree to accepting dredge spoils.

OTHER: DNR is required to charge royalty fees on dredge spoils. The current rate is \$.75 per metric yard to dispose of the dredge spoils. The rate is negotiated between Oregon and Washington for the Columbia River. The negotiation of the royalty rate happens at the time of the sale. DNR needs the revenue for their aquatic lands accounts.

Persons Testifying (Natural Resources, Ocean & Recreation): PRO: George Raiter, Cowlitz County Commissioner; Ken Stone, Cowlitz County.

OTHER: Heath Packard, DNR.

Staff Summary of Public Testimony (Ways & Means): PRO: This is a continuation of the Mount St. Helens issues. The Army Corps of Engineers has the responsibility to continue to dredge the river until 2035 and use the material for protecting the dike areas. The state has the obligation to pay for land rights for placement of the spoils and the county is working as an agent to the state for that purpose. About \$700,000 has been spent on that effort. However, many people have refused to have this material placed on their property because of the royalty issue. If the state cannot procure sites for free, then purchase of the land rights

will be required and this could be more costly than exempting the sale of this material from royalties. Further delay could endanger lives and property. The sand that has been sold thus far is exempted from the royalties. However, there is about 2.5 million yards of material that would be subject to the royalty.

CON: Concerns about this bill are due to the loss of potential revenues. DNR has a duty to maintain the integrity of the aquatic lands held in trust and gifting these resources for private gains is a concern. Royalties should be maintained for corporations that are in the business of marketing these materials for retail purposes. DNR can negotiate an appropriately-based fee for this purpose.

Persons Testifying (Ways & Means): PRO: Ken Stone, Cowlitz County.

CON: Heath Packard, Department of Natural Resources.

House Amendment(s): Allows all dredge spoil or materials removed from the state-owned beds and shores in the Mount St. Helens area that were deposited on adjacent public and private lands before January 1, 2009, to be disposed of by the landowners without being charged royalty fees by DNR.

Allows all dredge spoil or materials removed after January 1, 2009, and before December 31, 2017, to be disposed of by landowners without being charged royalty fees by DNR if the land was not used as a source for commercially sold materials.

Requires landowners using dredge materials for commercial purposes to provide written notification to DNR stating the type and amount of material to be sold or used. Requires DNR to biennially report to the Legislature a summary of the notifications and a determination of the amount of revenue being diverted.