

HOUSE BILL REPORT

E2SSB 5669

As Reported by House Committee On: Ways & Means

Title: An act relating to consolidating natural resources agencies and programs.

Brief Description: Regarding the consolidation of natural resources agencies and programs.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Ranker, Swecker, Regala, Rockefeller, Nelson, White, Pflug and Shin; by request of Governor Gregoire).

Brief History:

Committee Activity:

Ways & Means: 5/23/11 [DP].

Brief Summary of Engrossed Second Substitute Bill

- Directs specified natural resources agencies to conduct certain actions involving the consolidation of administrative regions, services, and functions.
- Consolidates the Pollution Liability Insurance Agency, certain reclaimed water functions, and certain support functions for the Columbia River Gorge Commission into the Department of Ecology.
- Consolidates low-level radioactive waste site use permitting functions into the Department of Health.

HOUSE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass. Signed by 18 members: Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Carlyle, Chandler, Cody, Dickerson, Hudgins, Hunt, Kagi, Kenney, Ormsby, Seaquist, Springer, Sullivan and Wilcox.

Minority Report: Do not pass. Signed by 8 members: Representatives Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Haigh, Haler, Hinkle, Parker, Ross and Schmick.

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.

Staff: Owen Rowe (786-7391) and Jason Callahan (786-7117).

Background:

Natural Resources Agencies Overview.

Washington has a number of state agencies and programs involved in the management of the state's natural resources and the environment. Some of these agencies and programs include the Washington State Department of Agriculture (WSDA), the Department of Ecology (DOE), the Washington Department of Fish and Wildlife (WDFW), the Department of Natural Resources (DNR), the Recreation and Conservation Office, the Puget Sound Partnership (PSP), and the State Parks and Recreation Commission (SPRC).

These agencies are arranged in an array of governance structures. For instance, the DNR is led by an independently elected official. By contrast, the WDFW and the SPRC are governed by citizen commissions with members appointed by the Governor. The Director of the DOE is appointed directly by the Governor.

In addition to the larger agencies, the elements of the state's overall governance structure, as it relates to natural resources and the environment, includes a number of smaller agencies, programs jointly managed by multiple agencies, and programs managed by agencies with missions beyond natural resources management.

Overview of Relevant Natural Resources Programs.

Pollution Liability Insurance Agency. The Pollution Liability Insurance Agency (PLIA) offers insurance coverage for cleanup of contamination from active heating oil tanks that are registered in the program prior to contamination occurring. The PLIA serves as the reinsurer for policies that cover underground storage tanks (USTs) and provides financial assistance to public and private owners and operators of USTs that are certified as meeting vital local government public health and safety needs.

Reclaimed Water Program. Reclaimed water is an effluent derived from a wastewater treatment system that has been treated to be suitable for a beneficial use that otherwise would not occur. Reclaimed water may be used for a variety of nonpotable water purposes, including irrigation, agricultural uses, industrial and commercial uses, streamflow augmentation, dust control, fire suppression, surface percolation, and discharge into constructed wetlands. The Department of Health (DOH) issues permits to water generators for commercial or industrial uses of reclaimed water. The DOE issues reclaimed water permits for land applications of reclaimed water.

Columbia River Gorge Commission. The federal Columbia River Gorge National Scenic Area Act authorized an interstate compact between Washington and Oregon to create the Columbia River Gorge Commission (CRGC). The CRGC develops and adopts land use and resource protection policies for nonfederal lands through the Scenic Area Management Plan. The CRGC serves as the appeals board when Washington or Oregon land use decisions in the Columbia River Gorge area are challenged. The CRGC works with the counties in

Washington and Oregon that are administering the land use ordinances that implement the Scenic Area Management Plan.

Site Use Permit Authority. The Northwest Interstate Compact on Low-Level Radioactive Waste Management (Compact) consists of eight states, including Washington. The commercial low-level radioactive waste disposal facility is located near the center of the Hanford Site on approximately 100 acres of federal land leased to the State of Washington. The DOE implements requirements of the Compact, including the administration of a user permit system and the issuance of site use permits for generators, packagers, or brokers using the commercial low-level radioactive waste disposal site. The DOH is responsible for implementing a regulatory and inspection program for ionizing radiation and issues licenses for the receipt and disposal of low-level radioactive waste. It is authorized to inspect the premises and determine financial assurance for a license applicant.

Summary of Bill:

Consolidation of Administrative Services, Functions, and Regions.

The WSDA, the DOE, the WDFW, the DNR, the PSP, and the SPRC must each appoint a representative to a natural resources consolidation team (team). The team must coordinate with the Office of Financial Management (OFM) to identify regional or field offices that are appropriate for use as a shared facility that maximizes the co-location of staff and resources. The team must also identify and implement cross agency efficiencies by maximizing the consolidation of administrative functions. The administrative functions that must be considered by the team include human resources, communications, budgeting, accounting, and information technology.

The team may invite additional participants to aid it in its mission and may consult with the OFM, the Department of Personnel, or any other agency as necessary. A brief summary of the team's efforts, including any legislative or budget recommendations, must be provided to the OFM and the Legislature by September 1, 2011. A second summary must be submitted one year later.

The WDFW and the DNR are required to develop a plan for consolidating their existing six administrative regions into four per agency. The administrative region consolidation plan, along with an analysis of the cost and benefits of regional consolidation, must be provided to the OFM and the Legislature by September 1, 2011. No reductions in the number of administrative regions must occur absent future legislative direction.

The State Conservation Commission (Commission) must work with conservation districts to facilitate the consolidation of conservation districts with a goal of reducing the total number to 39. The Commission must provide a progress report to the appropriate legislative committees by October 1, 2011.

Transfer of the PLIA into the DOE.

The PLIA is transferred its entirety into the DOE after July 1, 2012. The nature of the PLIA is changed from an independent agency into a program within the DOE. The Director of the DOE is assigned the responsibility of appointing the administrative head of the newly branded Pollution Liability Insurance Program. This appointment, unlike the Governor's appointment to head the PLIA as an agency, is not subject to Senate consent. The scheduled June 1, 2013, expiration of the program run by the PLIA is maintained.

Upon transfer to the DOE, all funds, equipment, appropriations, personnel, and other assets are transferred to the DOE. Any question as to how the transfer of assets will occur is to be settled by the OFM. The transfer of employees is to occur without the loss of rights under the state's civil service laws and all of the PLIA's classified employees will be considered as part of the DOE's bargaining unit. All existing contacts with the PLIA are still in full force.

Provision of Support to the CRGC by the DOE.

The DOE is directed to provide administrative and functional assistance to the CRGC after July 1, 2012, including providing the CRGC's budget proposal to the Governor. The legal status of the CRGC as an entity resulting from a bi-state contract is not changed. The DOE's budget request, and the state's budgeting, will recognize the CRGC as a separate program and all of the CRGC's funding must be accounted for separately.

Consolidation of Reclaimed Water Management into the DOE.

All elements of the state's reclaimed water program are consolidated into the DOE after July 1, 2012. The elements managed by the DOH are transferred to the DOE. Entities that the DOE may permit to use reclaimed water include both the owner of an agricultural processing facility generating agricultural industrial process water for agricultural use and the owner of an industrial facility generating industrial process water for reuse. The existing advisory committee that guides the reclaimed water program is expanded to include participation by the DOH. In addition, the DOE is directed to consult with the DOH in cases where a proposed use of reclaimed water may pose a public safety risk.

Upon consolidation of the reclaimed water program in the DOE, all funds, equipment, appropriations, personnel, and other assets of the DOH's reclaimed water program are transferred to the DOE. Any question as to how the transfer of assets will occur is to be settled by the OFM. The transfer of employees is to occur without the loss of rights under the state's civil service laws and all of the DOH's affected classified employees will be considered as part of the DOE's bargaining unit. All existing contacts with the DOH are still in full force.

Consolidation of the Low-level Radioactive Waste Site Use Permitting Functions into the DOH.

After July 1, 2012, the DOH is designated as the agency responsible for the administration of a user permit system and issue site use permits for generators, packagers, or brokers to use the commercial low-level radioactive waste disposal site. Upon transfer of the site use permit system in the DOH, all funds, equipment, appropriations, personnel, and other assets of the DOE's site use permit program are transferred to the DOH. Any question as to how the

transfer of assets will occur is to be settled by the OFM. The transfer of employees is to occur without the loss of rights under the state's civil service laws and all of the DOE's affected classified employees will be considered as part of the DOH's bargaining unit. All existing contracts with the DOE are still in full force.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2011, except for section 242, which reinstates prior law related to correcting references to the DOE after a scheduled expiration and takes effect July 22, 2011.

Staff Summary of Public Testimony:

(In support) It is better to accomplish cost savings by making cuts in back office functions than to reduce the programs that are necessary for recreation, natural resources protections, and environmental permitting. Efforts to co-locate regional facilities among various agencies will see modest savings in the near term but significant savings in the long term.

(With concerns) The Governor coordinated with the 13 natural resources agencies to enhance the current agency structure and to find ways to group the functions of compatible agency programs. The provisions in the bill that require agencies to consolidate administrative functions are unnecessary because the discussions and planning are already underway. New direction can complicate and even undermine these efforts.

Each agency is structured with a different governmental model (such as a statewide elected official, citizen commission, or gubernatorial appointee) that makes consolidation a difficult task. Also complicating any efforts to consolidate functions is the reality that the agencies are funded from various sources, some of which are very limiting in their allowable uses.

Consolidation is better achieved on a more narrow scale, like the various bills that recently passed to consolidate specifically identified programs. Agencies can produce better results if any mandates to consolidate that are paired with direction of where consolidation should occur and with consideration given to consolidation efforts that are already underway.

Co-location of regional offices has been studied and the conclusion was that significant co-location efforts would be impractical. Reducing the number of administrative regions within an agency would need an analysis and examination more significant than would be allowed under the timeline provided in the bill. The Governor's natural resources cabinet rejected a similar proposal for region contraction and concluded that the existing regions are designed to allow agency personnel to protect resources, fight fires, and meet trust mandates.

The DOE should not be able to change the estimate of expenditures that is provided by the CRGC during the budget development process.

(Other) Moving the functions regarding reclaimed water that are currently administered by the DOH to the DOE creates a better fit for the needs of the reclaimed water users, but other changes should not be added to the bill.

(Opposed) None.

Persons Testifying: (In support) Senator Ranker, prime sponsor.

(With concerns) Kirstan Arestad, Office of Financial Management; Lenny Young, Department of Natural Resources; Tom Davis, Washington State Department of Agriculture; and Joe King, Friends of the Columbia River Gorge.

(Other) Dawn Vyvyan, Yakama Nation.

Persons Signed In To Testify But Not Testifying: None.