

# HOUSE BILL REPORT

## HB 1367

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**As Reported by House Committee On:**  
Local Government

**Title:** An act relating to assessments for nuisance abatement in cities and towns.

**Brief Description:** Authorizing assessments for nuisance abatement in cities and towns.

**Sponsors:** Representatives Kirby, Jinkins, Crouse, Green, Fey, Sawyer, Kochmar, Fitzgibbon and Pollet.

**Brief History:**

**Committee Activity:**

Local Government: 2/1/13, 2/5/13 [DP].

**Brief Summary of Bill**

- Authorizes cities and towns to declare by ordinance what is deemed a nuisance within the city or town, which may include "litter" and "potentially dangerous litter" as defined by statute, to abate the nuisance, and to recover reimbursement costs for the abatement.
- Authorizes cities and towns to have a lien against property to recover costs for abating a nuisance.

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### HOUSE COMMITTEE ON LOCAL GOVERNMENT

**Majority Report:** Do pass. Signed by 6 members: Representatives Takko, Chair; Fitzgibbon, Vice Chair; Kochmar, Assistant Ranking Minority Member; Crouse, Liias and Springer.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Taylor, Ranking Minority Member; Buys.

**Staff:** Michaela Murdock (786-7289).

**Background:**

Authority of Cities and Towns to Declare Nuisances.

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*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.*

Under current law, all cities and towns are authorized to declare what is deemed a nuisance and to abate the nuisance. Various statutes provide the following:

- **First class cities** are authorized to declare what is deemed a nuisance, to abate any nuisance, and to impose fines upon persons creating, continuing, or allowing nuisances.
- **Second class cities** are authorized to declare what is deemed a nuisance; to prevent or abate nuisances at the expense of the party creating or maintaining the nuisance; and to levy a special assessment against premises where the nuisance is located to recover abatement costs.
- **Code cities** are granted by reference the same authority as other cities to determine what is deemed a nuisance and to abate nuisances.
- **Towns** may declare by ordinance what is deemed a nuisance and may exercise all remedies provided by law for preventing and abating nuisances.

Additionally, any city or town may by general ordinance require property owners to remove all or part of trees, plants, shrubs, or vegetation that impair the use of sidewalks or streets. Any city or town may require property owners to remove grass, weeds, shrubs, bushes, trees, or vegetation that have died or to remove debris on their property that is a fire hazard or menace to public health, safety, or welfare. Cities and towns are authorized to provide for removal of such items and to charge the property owner for the cost of removal. The charge is a lien against the property.

Other statutes further define what is deemed a "nuisance" and provide civil and criminal remedies and penalties for public and private nuisances.

#### "Litter" and "Potentially Dangerous Litter".

The Waste Reduction, Recycling, and Model Litter Control Act (Act) aims to coordinate litter control, increase waste reduction, and stimulate all components of recycling by delegating authority to the Department of Ecology (DOE) to create programs and to enforce and administer the provisions of the Act.

The Act defines "litter" as all waste material, which includes disposable packages or containers deposited in a prohibited manner, solid waste that is illegally dumped, and all potentially dangerous litter. "Potentially dangerous litter" means litter that is likely to injure a person or cause damage to a vehicle or other property and includes cigarettes, cigars, or other tobacco products capable of starting a fire; glass; hypodermic needles or other cutting or piercing medical instruments; raw human waste; and nails or tacks.

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

A city or town is authorized to declare by ordinance what is deemed a nuisance within the city or town. Any definition of nuisance adopted by a city or town may include "litter" and "potentially dangerous litter" as those terms are defined by the Waste Reduction, Recycling, and Model Litter Control Act.

Cities and towns may abate any nuisance at the expense of the parties creating the nuisance and may levy a special assessment on the property where the nuisance is situated to provide for the cost of abating it. Any assessment on the property is a lien against the property that has equal rank with state, county, and municipal taxes.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Staff Summary of Public Testimony:**

(In support) Cities and towns will have the same authority that counties currently have to declare a nuisance, provide for abatement of the nuisance, and recover their costs through assessment of a lien on property. The language of this bill is identical to the language used in the statute governing counties; accordingly, cities and towns will have the same breadth of authority as counties.

Currently, there are a variety of different statutes, providing varying grants of authority that govern nuisance abatement and assessment of liens for cities and towns. The law governing cities and town will be clarified and will make nuisance abatement and collection of abatement costs simpler.

Cities may currently obtain liens on property for abatement costs; however, these liens expire. This forces the city to go back to court and renew the lien, which costs the city time and money. Cities want to avoid having to go back to court or having to write off a lien that has become difficult to maintain at the expense of the taxpayer. The bill will ensure that abatement liens do not expire, cities and towns do not have to go back to court to renew them, and that the lien will be paid when the property is sold.

The bill will give abatement liens for cities and towns equal rank with state, county, and municipal taxes.

Most property owners who receive code enforcement notices, for example, in Tacoma, abate the nuisance willingly by cutting vegetation, removing junk cars, or cleaning up trash. There are also several community programs that aid in cleaning up nuisances. In the past several years, there have been 18 abatement cases in Tacoma with average total abatement costs of approximately \$2,500 each. Tacoma tries to give property owners an opportunity to do the work on their own, and to avoid having to go down an avenue where it will have to assess an abatement lien.

(Opposed) None.

**Persons Testifying:** Representative Kirby, prime sponsor; Councilman Joe Lonergan, City of Tacoma; and Dave Williams, Association of Washington Cities.

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