
Local Government Committee

SB 5323

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

Sponsors: Senators Roach, Darneille, Conway and Carrell.

Brief Summary of Bill

- Authorizes cities and towns to declare by ordinance what is deemed a nuisance within the city or town, to abate any such nuisances, and to levy a special assessment on the land or premises on which a nuisance is situated to recover the costs of abatement.
- Establishes that an assessment levied against property for the costs of abatement constitutes a lien against the property.

Hearing Date: 3/14/13

Staff: Michaela Murdock (786-7289).

Background:

Nuisance is broadly defined by statute as an unlawful act or omission that "either annoys, injures or endangers the comfort, repose, health, or safety of others; offends decency; or unlawfully interferes with, obstructs, or tends to obstruct or render dangerous for passage, any lake or navigable river, bay, stream, canal, or basin, or any public park, square, street or highway; or in any way renders other persons insecure in life or in the use of property." A nuisance which affects equally the rights of an entire community or neighborhood is a public nuisance. Any nuisance that does not fit the statutory definition of a public nuisance is a private nuisance.

Authority of Cities and Towns to Declare Nuisances.

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:

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- **First class cities**(*i.e.*, cities with a population of 10,000 or more at the time of organization or reorganization that have adopted a charter under the Washington Constitution) are authorized to declare what is a nuisance, to abate any nuisance, and to impose fines upon persons creating, continuing, or allowing nuisances.
- **Second class cities** (*i.e.*, cities with a population of 1,500 or more at the time of organization or reorganization, operating under applicable municipal statute) 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** (*i.e.*, charter and non-charter code cities operating under the Optional Municipal Code) are granted by reference the same authority as other cities to determine what is deemed a nuisance and to abate nuisances.
- **Towns**(*i.e.*, towns with a population of less than 1,500 at the time of organization, operating under applicable municipal statute) 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 vegetation that has 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", provide for abatement of a nuisance and recovery of the costs of abatement, 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.

Summary of Bill:

All cities and towns are 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.

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.