

SENATE BILL REPORT

ESHB 2439

As Reported by Senate Committee On:
Energy, Environment & Telecommunications, February 27, 2014

Title: An act relating to updating specified environmental statutes of the department of ecology to improve efficiency and provide for increased flexibility for local governments.

Brief Description: Updating specified environmental statutes of the department of ecology to improve efficiency and provide for increased flexibility for local governments.

Sponsors: House Committee on Environment (originally sponsored by Representatives Takko, Fitzgibbon, Tharinger, Ryu and Roberts; by request of Department of Ecology).

Brief History: Passed House: 2/17/14, 95-2.

Committee Activity: Energy, Environment & Telecommunications: 2/27/14 [DP, w/oRec].

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

Majority Report: Do pass.

Signed by Senators Ericksen, Chair; Sheldon, Vice Chair; McCoy, Ranking Member; Billig, Brown, Litzow and Ranker.

Minority Report: That it be referred without recommendation.

Signed by Senators Chase and Honeyford.

Staff: Jan Odano (786-7486)

Background: The Department of Ecology (Ecology) is responsible for managing many state policies regarding the environment. Ecology's authority includes managing the state's water resources, air quality, water pollution, solid and hazardous wastes, toxic hazards, and the state shorelines.

Ecology's authority includes the following:

- preparing and updating a statewide master oil and hazardous substance spill prevention and contingency plan;
- reviewing and approving shoreline master programs, including the program's designation and oversight of critical areas; and
- constructing, operating, and maintaining a steam electric generating plant.

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.

Ecology must adopt rules to:

- exempt beneficial uses of solid waste from the permitting requirements and the use for which the solid waste is used; and
- set maximum permissible noise levels, including reasonable implementation schedules to insure the maximum noise levels are not exceeded.

Under the Solid Waste Management statutes, local governments are required to prepare a coordinated, comprehensive solid waste management plan. The purpose of the plan is to manage solid waste reduction, collection, and handling and management services. Local governments and local health departments must provide a match of at least 25 percent for financial aid to assist with planning.

The Vessel Response Account was created to provide a dedicated rescue tug at the entrance to the Strait of Juan de Fuca to reduce the risk of maritime accidents and oil spills. However, the requirement for deposit of funds into the account expired July 1, 2008. The Coastal Protection Fund was established as a revolving fund for restoration of natural resources from water pollution activities and oil and hazardous materials spills. The account is funded by penalties, fees, and charges from the oil and hazardous materials spills program and compensation from damages assessed under Water Pollution Control Act.

The shorelines of the state are regulated under the Shoreline Management Act (SMA). The SMA applies to all marine waters, certain streams and rivers, lakes greater than 20 acres, shorelands adjacent to these waters, and associated wetlands. Shorelines may also include buffers for critical areas. The shoreline master program is adopted under the SMA. Amendments to a shoreline master program are effective after Ecology approves or after a decision by the growth management or shorelines hearings boards.

The policies and goals of the SMA are a goal of the Growth Management Act (GMA). Under the GMA, the SMA and its applicable guidelines are the sole basis for determining shoreline master program compliance with the GMA. However, the shoreline master program must comply with the GMA for achieving specific implementation and effective rates.

Many of Ecology's orders and decisions may be appealed to the Pollution Control Hearings Board (PCHB). However, there are statutory inconsistencies where programs allowing appeals are not specifically cited within PCHB statutes.

Summary of Bill: Programs administered by Ecology are amended to eliminate inconsistencies among statutes, clarify statutory language, make technical changes, repeal outdated provisions, and harmonize statutory provisions.

PCHB (chapter 43.21B RCW).

- Statutory provisions related to the PCHB are harmonized and updated to reflect references for PCHB review in other environmental statutes.
- Appeals of a corrective action order from the local air authority may be heard by a member of the PCHB or an administrative appeals judge employed by the PCHB.

Noise Control (chapter 70.107 RCW).

- Ecology must adopt rules for model standards for noise control regulations by local governments. Local governments are provided authority to manage noise control.

Solid Waste Management (chapter 70.95 RCW).

- The use of financial aid for the preparation of county solid waste management comprehensive plans may be used for implementation in addition to plan development. Transfer stations are included in disposal sites.
- Local governments must provide up to a 25 percent match, as determined by Ecology, for financial aid for planning and implementation of solid waste management comprehensive plans.
- Jurisdictional health departments must provide up to a 25 percent match to aid allocated by Ecology for enforcement activity during the year.
- Ecology must establish administrative procedures in rule for proposing and approving exempt solid waste beneficial uses.
- Ecology must provide to jurisdictional health departments proposals exempting beneficial uses of solid waste for review and comment prior to making a decision.

Oil and Hazardous Substance Spill Prevention and Response (chapter 90.56 RCW).

- Ecology's requirement to submit an annual state Master Oil and Hazardous Substance Spill Prevention and Contingency Plan to the Legislature is deleted.
- The Vessel Response Account is repealed and any money remaining in the Vessel Response Account is transferred to the Coastal Protection Account.

SMA (90.58 RCW). The provisions for when an amendment to a master program are effective are deleted.

The following are repealed:

- provisions authorizing the Ecology to construct a steam electric generating plant;
- certain noise control provisions;
- solid waste management provisions regarding waste-derived soil amendment application; and
- the requirement for any solid waste incineration or energy recovery facility prior to operation to automatically complete an environmental impact statement.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of the session in which the bill is passed, except for section 3 relating to the authority of the PCHB, which takes effect June 30, 2019.

Staff Summary of Public Testimony: PRO: This is a good streamlining bill.

Persons Testifying: PRO: Representative Takko, prime sponsor.