

SENATE BILL REPORT

SB 5296

As of February 4, 2013

Title: An act relating to the model toxics control act.

Brief Description: Concerning the model toxics control act.

Sponsors: Senators Ericksen, Baumgartner, Rivers, Bailey, Delvin and Honeyford.

Brief History:

Committee Activity: Energy, Environment & Telecommunications: 1/23/2013

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

Staff: Jan Odano (786-7486)

Background: The state Model Toxics Control Act (MTCA) is carried out by the Department of Ecology (DOE) to ensure that the vast majority of sites at which hazardous substances have been released are cleaned up. MTCA is funded by a 0.70 percent tax on the wholesale value of hazardous substances, cost recovery from remedial actions, mixed waste fees, and to a lesser extent fines, penalties, and other charges. The state toxic control account receives 47 percent of the revenue obtained from the hazardous substance tax while the local toxic control account receives 53 percent.

DOE is responsible to investigate, conduct remedial actions, enforce actions to protect human health, and provide technical and administrative assistance. DOE must prioritize funding to clean up hazardous waste sites and prevent future hazardous waste sites. Hazardous waste sites are ranked by considering the amount and type of contamination, the risk the contamination will spread, and routes of exposure. Sites are considered a higher priority when the contamination threatens drinking water supplies, exists in high quantity or over a large area, is toxic to animals or fish, may affect a body of water, or affects public health.

Liable parties must clean up sites contaminated with hazardous materials. DOE uses several methods to assist potentially liable persons to clean up hazardous waste sites such as the voluntary cleanup program, consent decrees, and agreed orders.

The state and local toxics control accounts provide funding for activities such as state programs for hazardous and solid waste planning, management, and enforcement; financial assistance for local hazardous and solid waste programs; and assistance for potentially liable

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persons to pay for remedial actions under certain circumstances. DOE must use local toxic control account funds for grants and loans to local governments with a prioritized order beginning with remedial actions, hazardous waste plans and programs, solid waste plans and programs, cleanup of methamphetamine production sites, and cleanup and disposal of hazardous substances from abandoned or derelict vessels.

DOE must prepare a ten-year financing report every two years. The report must identify long-term remedial action project costs, track expenses, and project future needs. Additionally, DOE must project the remedial action need, cost, revenue, and recommended working capital reserve estimate to the next biennium's long-term remedial action needs from both the local and state toxics control account.

Summary of Bill: The use of MTCA funds are prioritized and must be used only for cleanup of high priority hazardous waste sites that have a completed remedial investigation or feasibility study, finalized cleanup action plan, and are ready to begin clean-up action; cleanup and reuse of brownfield properties; and cleanup of properties where local communities and liable parties are ready to begin clean-up action.

DOE must identify model remedies for routine types of clean-up projects and provide them free of charge. In addition, DOE must consider model remedy proposals from qualified private sector engineers, consultants, and contractors.

The Special Category E account is created and receives revenue from the state and local toxic control accounts when the revenue from the hazardous substance tax is forecasted to exceed \$150 million. The Special Category E account funds may be spent only on clean-up projects using procedures, technologies, management, and oversight that reduces clean-up time.

DOE must plan to clean up hazardous waste sites and prevent new hazardous waste sites at a pace that matches the cash resources in the state and local toxic control accounts and the Special Category E account.

The ten-year financing report must include the number of model remedy proposals prepared by qualified private sector engineers, consultants, and contractors, and the success rate of model remedy proposals as measured by the number of jobs created and achievement of the clean-up standard within the proposed timeframe and budget. DOE must provide to the Legislature budget estimates for multi-biennia clean-up projects that will cost over \$10 million and an accounting of projects supported by Special Category E account.

The amount of \$25 million from the state toxic control account and \$75 million from local toxic control accounts is transferred to Special Category E account.

Appropriation: None.

Fiscal Note: Requested on February 04, 2013.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: We need to make sure MTCA funding goes to cleanup, jobs, and economic development. There needs to be accountability and transparency in the budgeting process. There needs to be review of the effectiveness and efficiency of the programs to maximize the use of the funds. The bill would allow for more dollars to be spent more rapidly. Encouraging the use of model remedies is a great idea. The main purpose of these funds is to prevent and clean up hazardous waste sites. We need to stop diverting money away from the main purpose of MTCA. Money spent on other programs is money not being spent on the cleanup process.

CON: We need to remember the concept that successful cleanup is reliant on reducing toxic substances in the environment, making sure that toxic substances are properly handled, and protection of sites that have been cleaned up. MTCA provides for the continued reduction of toxic substances in the environment which is necessary to maintain clean up of sites. The state toxics control account is used in many state programs that deal with hazardous management planning and inspections. The bill would negatively impact the core prevention programs and waste management activities such as inspections of hazardous management planning inspections waste sites, solid waste planning and inspections of sites, waste generation, oil spills prevention and stormwater source control, and grants to local governments. This would negatively affect core public health functions necessary to protect public health from the effects of toxic substances in the environment. Removing the local toxics control account would directly interfere with ongoing site cleanups. The bill could result in unintended elimination of some jobs.

OTHER: We like the unquestionable support to cleanup. It is unclear as to the impacts to currently on-going projects. There needs to be a conversation on how the dollars are spent.

Persons Testifying: PRO: Greg Hanon, Western States Petroleum Assn.; Brandon Houskeeper, Assn. of WA Business.

CON: Jim Pendowski, DOE; Maryanne Guichard, Dept. of Health; Art Starry, Thurston County Public Health, WA State Environmental Health Directors; Rod Brown, WA Environmental Council; Kerry Graber, WA Federation of State Employees.

OTHER: Johan Hellman, WA Public Ports Assn.; Carl Schroeder, Assn. of WA Cities.