

SENATE BILL REPORT

SB 5618

As of February 9, 2015

Title: An act relating to requiring the department of ecology to notify residents of a highly impacted community when initiating review of certain environmental permit applications.

Brief Description: Requiring the department of ecology to notify residents of a highly impacted community when initiating review of certain environmental permit applications.

Sponsors: Senator McCoy.

Brief History:

Committee Activity: Energy, Environment & Telecommunications: 2/10/15.

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

Staff: Jan Odano (786-7486)

Background: The United States Environmental Protection Agency (EPA) defines environmental justice as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

In 1994 President Clinton issued Executive Order 12898, requiring certain federal agencies to make environmental justice part of their mission by identifying and addressing disproportionately high and adverse human health or environmental effects on minority and low-income populations.

The United States Department of Health & Human Services' environmental justice strategy focuses on healthy community environments to protect the health of all people. The strategy includes (1) identifying and addressing disproportionately high and adverse human health and environmental effects on low-income populations and Indian tribes, and (2) encouraging the fair treatment and meaningful involvement of affected parties with the goal of building healthy, resilient communities and reducing disparities in health and wellbeing associated with environmental factors. The Department of Ecology (Ecology) has developed a checklist for internal use to facilitate the incorporation of environmental justice considerations into agency decisions. Additionally, there is an Environmental Performance Partnership Agreement between EPA and Ecology where the agencies agree to communicate about regional, emerging concerns on environmental justice actions.

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.

The Washington State Board of Health and Department of Health (DOH) are members of the Governor's Interagency Coordinating Council on Health Disparities (Council). The Council's duties include creating an action plan and statewide policies to address social determinants of health that lead to disparities as well as other factors of health that can impact improving status, health literacy, physical activity, and nutrition. In addition the Council must facilitate information gathering to understand how state actions may help or contribute to health disparities.

Clean Air Act. There are several types of air emission permits issued in Washington. The federal Clean Air Act requires all states to have statewide operating permit programs for businesses and industries that are the largest sources of air pollution. Air operating permits are required for the ongoing operation of major source facilities that emit more than 100 tons per year of certain pollutants, 10 tons per year of a single hazardous air pollutant, or 25 tons per year of a combination of hazardous air pollutants. Prior to establishing or modifying a new source or emissions unit that would be required to register with or obtain an operating permit from Ecology or a local air authority, a notice of construction permit application must be filed with the applicable agency and must be approved following a new source review.

Clean Water Act. The EPA has delegated federal Clean Water Act authority to Ecology, which issues a variety of permits under state and federal laws that stipulate conditions for discharges into state waters. Water discharge permits can either be an individual permit issued to a single regulated facility, or a general permit for a group of similar dischargers at diverse locations. Ecology issues general permits for categories of dischargers like industrial and municipal stormwater dischargers, sand and gravel operations, and water treatment plants.

Hazardous Waste Management. In implementing the state Hazardous Waste Management law and the federal Resource Conservation and Recovery Act, Ecology requires dangerous waste generators to properly dispose of waste at approved dangerous waste management sites and facilities. Facilities that treat, store, dispose, transfer, or recycle dangerous wastes must apply for a dangerous waste permit. Dangerous waste generators must follow certain rules related to their use and temporary storage of wastes, but need not hold a permit unless they store dangerous wastes for longer than 90 days.

The Model Toxics Control Act (MTCA). The state MTCA establishes procedures to ensure that the vast majority of sites at which hazardous substances were released are cleaned up. Ecology is responsible to investigate, conduct remedial actions, enforce actions to protect human health, and provide technical and administrative assistance. Hazardous waste sites are ranked by considering the amount and type of contamination, the risk that 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.

Summary of Bill: Ecology must provide notice to persons residing in a highly impacted community when initiating a review of an application for issuance or reissuance of an air operating permit, water discharge permit, or development of a remedial action at a facility or multiple facilities within or near a highly impacted community.

The notice must be provided to community members at least 15 days prior to initiation of the review of the environmental permit application or proposed remedial action and provide opportunity for review and comment. Ecology may use existing notification procedures if those procedures are similar or earlier than the 15-day requirement.

Ecology must maintain a list of community organizations and persons requesting to receive notice of environmental permits or remedial action activities in a highly impacted community.

DOH must identify highly impacted communities using characteristics such as: unemployment rates greater than 20 percent of the state average; median household income less than 75 percent of the state median household income; disproportionate public health challenges; or significant percentage of community residents who are minorities, foreign born, or who lack proficiency in English.

Appropriation: None.

Fiscal Note: Requested on February 6, 2015.

Committee/Commission/Task Force Created: No.

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