

SENATE BILL REPORT

ESSB 6605

As Amended by House, March 4, 2016

Title: An act relating to ensuring that solid waste management requirements prevent the spread of disease, plant pathogens, and pests.

Brief Description: Ensuring that solid waste management requirements prevent the spread of disease, plant pathogens, and pests.

Sponsors: Senate Committee on Agriculture, Water & Rural Economic Development (originally sponsored by Senators Warnick, Becker, Brown and Honeyford).

Brief History:

Committee Activity: Agriculture, Water & Rural Economic Development: 2/02/16, 2/04/16 [DPS-WM].

Ways & Means: 2/08/16, 2/09/16 [DPS(AWRD), DNP].

Passed Senate: 2/17/16, 48-1.

Passed House: 3/04/16, 97-0.

SENATE COMMITTEE ON AGRICULTURE, WATER & RURAL ECONOMIC DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 6605 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Warnick, Chair; Danel, Vice Chair; Takko, Ranking Member; Hobbs and Honeyford.

Staff: Diane Smith (786-7410)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 6605 as recommended by Committee on Agriculture, Water & Rural Economic Development be substituted therefor, and the substitute bill do pass.

Signed by Senators Hill, Chair; Braun, Vice Chair; Dammeier, Vice Chair; Honeyford, Vice Chair, Capital Budget Chair; Hargrove, Ranking Member; Keiser, Assistant Ranking Member on the Capital Budget; Ranker, Ranking Minority Member, Operating; Bailey, Becker, Billig, Brown, Conway, Darneille, Hewitt, O'Ban, Padden, Parlette, Rolfes and Schoesler.

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.

Minority Report: Do not pass.

Signed by Senators Hasegawa, Nelson and Pedersen.

Staff: Sherry McNamara (786-7402)

Background: Each county must establish a local solid waste advisory committee (Committee). The members of the Committee are appointed by the county legislative authority. The Committee must consist of at least nine members who represent a balance of interests such as citizens, business, the waste management industry, and public interest groups. The Committee reviews and comments upon proposed rules, policies, and ordinances prior to their adoption.

Each county, city, or local board of health must adopt regulations governing solid waste handling that implement the comprehensive solid waste management plan (Plan).

The Plan is required of every county. Each Plan must include various elements, one of which is a comprehensive waste reduction and recycling element. This element provides programs that reduce the amount of waste, provide for source separation, and provide recycling opportunities.

The local health department must submit any application for a permit to establish or modify a solid waste handling facility to the Department of Ecology (DOE). DOE must report its findings to the local health department. The local health department determines whether the site and its facilities comply with local regulations and state rules.

After a permit is issued by the local health department, the permit is reviewed by DOE for conformity with all applicable laws and regulations and for conformity with the Plan.

Every solid waste handling facility permit must be renewed at least every five years. It may be suspended if at any time the local health department decides the facility is violating any laws, DOE's rules, or local regulations.

Any given solid waste may be exempted from permitting, by DOE's rule or by application from a person, for one or more beneficial uses. If by an application to DOE, the application is forwarded to the local health department for review and comment within 45 days. The local health department and the applicant may appeal DOE's decision whether to approve a solid waste for exemption from permitting.

Summary of Engrossed Substitute Bill: A local government that prohibits the disposal of food waste and compostable paper as garbage is required to consult with the Washington State Department of Agriculture (WSDA) to ensure its plan prevents the spread of disease, plant pathogens, and pests to areas not under WSDA quarantine. This process is required before the local government submits its solid waste management plan (Plan) to DOE for approval. Before DOE may approve the local Plan, DOE must require WSDA's written statement of compliance with this requirement for inclusion in the final approved solid waste management plan. Any existing Plans must be reviewed and made to comply with this approval process within 90 days of the effective date of this legislation. If revision occurs, the revised Plan is subject to approval by DOE.

As part of its rule making, DOE may include quarantine status among the factors bearing on classifying areas of the state according to relevant factors concerning solid waste disposal standards.

The standards used by each county or city when siting a solid waste disposal facility must be periodically revised. The revision shall include information relating to preventing the spread of disease, plant pathogens, and pests to areas that are not quarantined.

The interests of agriculture must be part of the balance of interests that the county legislative authority considers in appointing members to the local solid waste advisory committee.

DOE must immediately upon receipt, provide WSDA with a copy of the preliminary draft comprehensive solid waste management plan submitted by a county or city to DOE. WSDA must review the plan within 45 days for compliance with quarantine law and rules. WSDA must advise the county or city and DOE of the results of WSDA's review.

When an application is submitted to DOE by the local health department for a permit to establish or modify a solid waste handling facility, the application must also be submitted to WSDA if the proposed location is in an area not under quarantine and if the facility is proposing to receive material for composting from an area that is under quarantine. WSDA's review is to determine whether the application demonstrates information sufficient for the assessment of risk to non-quarantined areas.

A permit may be suspended by the local health department for violation of WSDA's rules.

An application to DOE from a person to exempt any given solid waste from permitting for one or more beneficial uses must be forwarded to WSDA as well as to the local health department for review and comment within 45 days. WSDA's comments must address whether approving the application places an area currently not under quarantine at risk of being placed under quarantine.

WSDA may appeal DOE's decision whether to approve solid waste for exemption from permitting. The appeal is to the pollution control hearings board. WSDA's election has no effect on its authority to regulate and enforce relative to the solid waste that is the subject of the exemption petition.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Original Bill (Agriculture, Water & Rural Economic Development): PRO: We have seen permits that were rightfully issued without WSDA involvement until after the discovery of a quarantined pest at a facility in a non-

quarantined area. The value of last year's apple crop was \$3.7 billion with total economic value to the state being \$8 billion. Of the 142 million boxes produced, 30 percent is exported. We cannot afford another Quincy occurrence of an inappropriate siting.

OTHER: The bill needs to be narrowed to apply only to green and yard waste, if that is its intent. As written, all solid waste management plans would need WSDA review and there are hundreds of these plans. There are concerns about scope and fiscal impact. A report will be done in April to clarify pest mitigation.

Persons Testifying on Original Bill (Agriculture, Water & Rural Economic Development): PRO: Senator Warnick, prime sponsor; Jim Halstrom, Wa State Tree Fruit Association.

OTHER: Laurie Davies, Department of Ecology; Kirk Robinson, WSDA.

Persons Signed In To Testify But Not Testifying on Original Bill: No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): PRO: This bill will enable the Department of Agriculture to review permits for solid waste facilities receiving composting material to avoid apple maggots being found in a site located in an area that is not quarantined. Of the 142 million boxes of apples produced in our state, 30 percent are exported outside the United States. We can not afford an apple maggot showing up in one of our apples boxes.

Persons Testifying on First Substitute (Ways & Means): PRO: Jim Halstrom, Washington State Tree Fruit Association.

Persons Signed In To Testify But Not Testifying on First Substitute: No one.

House Amendment(s): WSDA may comment on applications for exemptions from solid waste permitting requirements that apply to waste-derived soil amendments, using the same WSDA comment process that applies to other DOE beneficial use determinations.

Persons who violate conditions attached to waste-derived soil amendment exemptions from solid waste permitting requirements are subject to penalties of up to \$1,000 per day.