

# SENATE BILL REPORT

## SB 5136

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As of February 1, 2017

**Title:** An act relating to electronic product recycling.

**Brief Description:** Concerning electronic product recycling.

**Sponsors:** Senators Chase, Sheldon, Conway and Hasegawa.

**Brief History:**

**Committee Activity:** Energy, Environment & Telecommunications: 2/01/17.

**Brief Summary of Bill**

- Requires public disclosure and clarifies state standards for contracting with electronic product recycling companies.

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### SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

**Staff:** Kelsey Morfitt (786-7407)

**Background:** The Department of Ecology (Ecology) oversees the E-Cycle program (Program), which was created in 2006 under the Electronic Products Recycling Act (E-Cycle Law). The Program provides free recycling of e-waste, which includes computers, monitors, laptops, and televisions. Households, charities, small businesses, school districts, and small governments may recycle e-waste under the Program. Ecology reviews all plans for compliance and operation and enforces the E-Cycle Law.

The Washington Materials Management and Financing Authority (Authority) manages the Program. The Authority must devise and implement a standard plan for collecting, transporting, and recycling the electronic products of its participating manufacturers. All manufacturers of electronic products sold, or previously sold, in or into the state, must participate in a recycling plan. Manufacturers are automatically included as participants in the standard plan (Plan). If certain criteria are met, a manufacturer or group of manufacturers may implement their own independent plan. Manufacturers must finance the operations of the Authority.

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*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 Authority is governed by a board of directors (Board) appointed by the Director of Ecology. The Board is comprised of 11 representatives from television and computer manufacturers: five members represent the top-ten brand owners; and six members represent other brands, including at least one retailer selling its private label. The Directors of Ecology and the Department of Commerce serve as ex-officio members.

The Department of Enterprise Services (DES) is responsible for policy development and oversight of the procurement of goods and services by all state agencies. Public procurement of goods and services is generally handled through a competitive solicitation and bidding process, with some exceptions like emergency, sole source, and direct buy. The award for the purchase or contract is given to the lowest responsive and responsible bidder.

The Authority and authorized parties must submit an annual report (report) to Ecology by March 1st for the preceding year. Ecology must review the report within 90 days of submission, and the report must be disclosed to the public. The report includes details about the collection services provided in the preceding year.

**Summary of Bill:** The Program must be developed, financed, and implemented with full public disclosure and consistent with state contract standards. The Authority must be guided by policies and procedures set forth in state contract and procurement law as defined in statute.

The Directors of Ecology and the Department of Commerce, or their designees, must attend a minimum of three board meetings each year. Two Board positions are reserved for representatives of companies engaged in collecting, transporting, and processing e-waste. One Board position is reserved for a representative of organizations advocating for increasing the recycling and reuse of e-waste. These positions must rotate every two years.

The Authority must give priority to processors operating in the state. An e-waste transporter, collector, or processor who violates this act cannot be a preferred participant for a minimum of three years.

Ecology must periodically: (1) audit transporters, collectors, and processors that are utilized to fulfill the requirements of an independent plan or the Plan; and (2) review the Plan to ensure: consistency in its allocation of product volume among contracted transporters, collectors, and processors; that the authority engages in competitive rate and volume negotiations; and consistency in its administration of the Plan. The Plan must include how the Authority or authorized party will review service contracts and provide for contract rate and volume revisions at least twice per year to adjust for changes in market conditions.

The Authority and authorized parties' reports must include:

- contracted rates and allocated volumes for services by each transporter, collector, and processor; and
- rates bid or offered by other service providers that unsuccessfully sought contracts with the Authority and each authorized party.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony:** PRO: This bill improves the transparency of, and accountability for, the state's e-waste recyclers. Total Reclaim and other companies said they were recycling e-products in the U.S., but actually sent e-products overseas.

CON: The current system is working. The intent of the Program was to be a nongovernmental entity; transparency goes against this intent. Revising contracts at least twice per year creates endless price negotiations.

OTHER: Ecology is concerned because a board of manufacturers run the Program and adding some recyclers, and not their competition, to the Board creates a conflict of interest. Ecology currently enforces violations with fines.

**Persons Testifying:** PRO: Senator Maralyn Chase, Prime Sponsor; Sean O'Sullivan, Ace Metals; Gareth Perry, Ace Metals; Jim Puckett, Basel Action Network.

CON: Paul Olsen, President; John Friedrich, Washington Materials Management & Finance Authority; Charlie Brown, Consumer Technology Association; Craig Lorch, Total Reclaim.

OTHER: Laurie Davies, Ecology.

**Persons Signed In To Testify But Not Testifying:** No one.