

HOUSE BILL REPORT

ESHB 2713

As Passed House:
February 16, 2020

Title: An act relating to encouraging compost procurement and use.

Brief Description: Encouraging compost procurement and use.

Sponsors: House Committee on State Government & Tribal Relations (originally sponsored by Representatives Walen, Chandler, Springer, Kretz, Fitzgibbon, Blake, Doglio, Davis, Ramel, Goodman and Pollet).

Brief History:

Committee Activity:

State Government & Tribal Relations: 2/5/20, 2/7/20 [DPS];
Appropriations: 2/10/20 [DPS(SGOV)].

Floor Activity:

Passed House: 2/16/20, 96-0.

Brief Summary of Engrossed Substitute Bill

- Requires state agencies and local governments to use compost products in government-funded projects, subject to certain exceptions.
- Encourages local governments that provide residential compost services to enter into a purchasing agreement with their compost processor to buy back finished compost products for use in government projects or on government land.
- Creates a three-year compost reimbursement pilot program for farming operations to receive reimbursement for 50 percent of certain purchases, transportation, equipment, spreading, and labor costs up to \$10,000 per year, with priority given to small farming operations.
- Requires the Department of Agriculture to manage the reimbursement pilot program.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL RELATIONS

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.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Gregerson, Chair; Pellicciotti, Vice Chair; Walsh, Ranking Minority Member; Goehner, Assistant Ranking Minority Member; Appleton, Dolan, Hudgins, Mosbrucker and Smith.

Staff: Jason Zolle (786-7124).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on State Government & Tribal Relations be substituted therefor and the substitute bill do pass. Signed by 32 members: Representatives Ormsby, Chair; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Stokesbary, Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier, Chandler, Chopp, Cody, Corry, Dolan, Dye, Fitzgibbon, Hansen, Hoff, Hudgins, Kilduff, Kraft, Macri, Mosbrucker, Pettigrew, Pollet, Ryu, Schmick, Senn, Springer, Steele, Sullivan, Sutherland, Tarleton, Tharinger and Ybarra.

Staff: Dan Jones (786-7118).

Background:

Washington passed an act in 1991 with the intent to increase the procurement of products containing recycled products by state agencies and local governments. The act required the Director of the Department of General Administration (now the Department of Enterprise Services) to adopt standards specifying the minimum permissible content of recycled materials in products commonly purchased by state and local governments, such as paper, latex paint, and building insulation. The state was required to create a mandatory plan to increase purchases of recycled-content products, which included a target for purchase of compost products for landscaping or similar projects. "Compost products" are defined as mulch, soil amendments, ground cover, or other landscaping material derived from the biological or mechanical conversion of biosolids or cellulose-containing waste materials.

The act also required local governments to adopt a minimum purchasing goal for recycled content as a percent of the total amount of supplies purchased. Local governments were encouraged to consider policies to give preferential purchasing treatment to products with recycled content. Counties and cities were required to adopt specifications for the use of compost products in road projects.

Some of these requirements have since grown more stringent. Compost products are now required to meet federal product standards. The amount of compost products required to be purchased by the state was doubled between 1994 to 1998.

Summary of Engrossed Substitute Bill:

State agencies and local governments are required to consider whether compost products can be used in government-funded projects when planning or soliciting and reviewing bids. If compost products can be utilized in the project, the agency or local government must do so, subject to the following exceptions:

- compost products are not available within a reasonable amount of time;
- compost products that are available do not meet existing purchasing standards or federal or state health and safety standards; or
- compost purchase prices are not reasonable or competitive.

State agencies may also decline to use compost products in a project if:

- the total cost is financially prohibitive;
- the application of compost products will detrimentally impact the nutrient condition of soil used for crops;
- the project consists of growing trees in a greenhouse setting; or
- compost products that are available have not been certified as pest-and-pathogen free.

Purchase priority is to be given to local compost producers that are certified by a nationally recognized organization and produce products derived from municipal compost programs. Before compost products are transported or applied for government projects, compliance with Department of Agriculture (Department) pest control regulations must be ensured.

Local governments that provide residential compost services are encouraged to enter into purchasing agreements to buy back at least 50 percent of the finished compost product produced from the compost it delivered to its processor. Local governments are authorized to enter into collective purchasing agreements if doing so is more cost-effective or efficient. The compost processor should offer a purchase price that is reasonable and competitive for the specific market.

The Department must create a three-year compost reimbursement program to reimburse certain expenses to farming operations in the state. These expenses are for:

- the purchase of compost products;
- transportation;
- equipment;
- spreading; and
- labor.

A farming operation is a commercial agricultural, silvicultural, or aquicultural facility or pursuit including care and production of animals for food and certain nonfood uses, the production of crops, and the farming or ranching of plants or animals in water environments.

Subject to amounts appropriated for this purpose, farming operations may be reimbursed for up to 50 percent of the costs they incur, up to \$10,000 per year. Compost products must be purchased from facilities with solid waste handling permits to be eligible for reimbursement. Compost products that the farming operation has or intends to transfer, whether or not for compensation, may not be reimbursed. Funds must be distributed by the Department in a manner that prioritizes small farming operators, as measured by acreage.

To be reimbursed, a farming operation must first complete an eligibility review with the Department prior to transporting or applying any compost products for which reimbursement will be sought under this section. The review is to determine whether the transport and application complies with the Department's agricultural pest regulations, and to ensure that the farming operation will permit soil sampling by the Department. Farming operations seeking reimbursement must submit one application per year on a Department-created form that may include verification of the size, sale weight, or amount of compost products used, as

well as verification of the costs requested for reimbursement. Applications must be submitted by September 1 for the previous fiscal year.

A new position is established within the Department for a compost reimbursement pilot project manager, exempt from civil service with a salary that may not exceed \$50,000 per year. The manager is required to facilitate the reimbursements and manage the day-to-day coordination of the program.

The Department must submit an annual report to the Legislature that includes the amount of compost for which reimbursement was sought, the qualitative and quantitative effects of the program on soil quality and carbon storage, and an evaluation of the benefits and costs of continuing, expanding, or furthering the program.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (State Government & Tribal Relations):

(In support) This bill has been vetted and changed based on input from several state agencies and stakeholders, and there is a reason it has broad support. Generating and using compost is good for land and helps sequester carbon. This bill helps to take what is composted and recycle it for local use as part of a green economy. It will divert tons of waste from landfills. Diversion is only half of the responsibility, however; the other half is to use the compost. This bill seeks to ensure that state local governments will use compost when they can, and it will encourage farming operations by reimbursing such use based on a successful program in Hawaii. Compost does nothing when it is sitting in a pile; it needs to get put back into the soil.

(Opposed) Compost is big business, with two to three companies representing one third of business. This bill favors larger companies rather than leveling the playing field. The bill encourages compost of 8 percent food waste, but a small compost business earlier testified that it has only 5 percent food waste. There is no analysis to ensure that local governments can support buy back requirements.

(Other) Counties struggle to market compost products so parts of this bill are appreciated. Concerns about the underlying bill are addressed in the substitute bill, so there is support for the substitute bill. The Department is neutral because this policy is not in the Governor's budget, but the Department likes the policy and appreciates that it allows the Department to do field trials with soil sampling.

Staff Summary of Public Testimony (Appropriations):

(In support) Increasing the use of compost would help divert organic content from landfills, sequester carbon, and reduce stormwater pollution. The reimbursements to farming

operations are modelled after a program in Hawaii that has worked well. The policies in this bill would help avoid some of the pitfalls that have occurred in the recycling industry and get compost back into the local communities from which it originated. The bill would help reduce the amount of food waste going into landfills. The bill would help expand our composting infrastructure and increase the amount of material collected in curbside and drop-off programs.

(Opposed) None.

Persons Testifying (State Government & Tribal Relations): (In support) Representative Walen, prime sponsor; Karen Dawson, Cedar Grove; Jason Lenz, Lenz Enterprises, Inc.; Heather Trim, Zero Waste Washington; Jeff West, Olympic Organics, LLC; Quinn Apuzzo, Recology King County; Peter Godlewski, Association of Washington Business; and Justin Allegro, The Nature Conservancy.

(Opposed) Paul Elliot.

(Other) Paul Jewell, Washington State Association of Counties; and Evan Sheffels, Department of Agriculture.

Persons Testifying (Appropriations): Jay Blazey, Cedar Grove Composting; and Heather Trim, Zero Waste Washington.

Persons Signed In To Testify But Not Testifying (State Government & Tribal Relations): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.