

SENATE BILL REPORT

SB 5854

As of February 18, 2019

Title: An act relating to ensuring the long-term economic and environmental sustainability of the state's recycling system within the existing regulatory structure.

Brief Description: Ensuring the long-term economic and environmental sustainability of the state's recycling system within the existing regulatory structure.

Sponsors: Senators Palumbo, Rivers, Hobbs, Liias, Nguyen and Wilson, L..

Brief History:

Committee Activity: Environment, Energy & Technology: 2/19/19.

Brief Summary of Bill

- Directs the Department of Ecology (DOE) to conduct a statewide, coordinated public outreach and education campaign related to sustainable recycling practices.
- Establishes a list of recyclable materials eligible for curbside commingled recycling programs, and prohibits the collection of ineligible recyclable materials through curbside commingled recycling programs.
- Requires city and county solid waste programs to provide notices related to the costs of commercial and residential recyclable material collection services.
- Authorizes DOE solid waste financial assistance to be used for the costs to cities and counties associated with implementing changes to recycling systems.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Staff: Jan Odano (786-7486)

Background: Local governments have the primary responsibility to manage solid waste. Each county must prepare a coordinated, comprehensive solid waste management plan and adopt regulations or ordinances to implement the plan. The plan must include solid waste handling, recovery, and recycling that can be integrated into the comprehensive county plan.

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 waste reduction and recycling element must include waste-reduction and source-separation strategies as well as the levels of service provided. Source separation strategies in urban areas must include the collection of source-separated materials from residential sources, while in rural areas such strategies must include drop-off boxes and buy-back centers. Local governments determine which materials may be accepted in curbside recycling. The majority of local governments and solid waste collection companies collect commingled recycled materials in a provided single cart. Depending on the service provider, several bins may be provided to customers requiring recyclables to be separated by type or source. Local comprehensive solid waste management plans must be reviewed and revised at least every five years.

DOE reviews and approves locally issued permits and solid waste management plans, and defines minimum functional standards for all types of solid waste facilities. The regulations must address storage, collection, transportation, and treatment.

The Utilities and Transportation Commission (UTC) regulates haulers transporting solid waste, garbage, and recyclables from residential sites. The UTC also regulates the collection and transport of recyclable materials from drop boxes, recycling buy-back centers, and commercial and industrial recyclable material generators. The certificate to transport garbage and recyclables sets the geographic areas in which the company is authorized to collect waste. Cities and towns have the authority to provide their own solid waste services or to contract for solid waste services. Solid waste services provided or contracted by cities and towns are not subject to UTC regulation.

All collected materials for recycling are transported to a materials recovery facility (MRF). At MRFs, collected materials are sorted and processed into bales of different types of recyclables. The MRF readies the bales of recyclable materials for shipment and sale to a secondary processor or end-user. Materials that are not recyclable are sent to the landfill.

At the direction of the Legislature, the staff of Joint Legislative Audit and Review Committee (JLARC) conducts sunset reviews of the need for the continued existence of a program or policy. A JLARC sunset review examines whether the evaluated program has complied with legislative intent, is operating efficiently and economically, is meeting performance goals, and is duplicative of other entities or private sector activities. The program or authority subject to a JLARC sunset review is repealed from law in the year following the sunset review unless the Legislature takes action to continue the program.

Summary of Bill: Stakeholder Work Group. DOE must convene a stakeholder work group consisting of no more than 10 members representing the UTC, DOE, cities, counties, operators of permitted municipal solid waste MRFs, regulated solid waste collection companies, and municipal contractors for solid waste collection services. The work group must provide annual updates to the Legislature regarding a statewide education and outreach campaign for sustainable recycling, and draft rules to establish processes by which local governments may designate materials as acceptable for recycling.

Solid Waste Management Plans. By January 1, 2020, local governments must update their plans with eligible recyclable materials. Materials that are eligible for recycling are certain types of paper, steel, tin or aluminum cans; #1 PET plastic bottles and jugs; and #2 HDPE

plastic containers used for carbonated beverages, milk, juice, detergent and cleaning solutions. Ineligible materials include specified paper products, metals, plastics, glass, and other materials such as fabrics, wood, and wire.

Local governments may not operate or require curbside recycling programs to collect ineligible materials and may not designate ineligible materials as recyclable until January 1, 2024, consistent with the rules adopted by DOE. Provisions in solid waste or recycling service contracts requiring collection of ineligible curbside commingled recycling materials are declared void and unenforceable.

By December 1, 2019, each local government with a solid waste management plan must submit evidence to DOE that its plan conforms with the recycling material requirements. DOE must submit a report to the Legislature detailing local government compliance with the recycling materials requirements.

After January 1, 2024, cities and counties may designate materials on the list of ineligible materials as acceptable for collection in a commingled recycling program, consistent with a process that DOE must adopt by rule by June 1, 2021. DOE-adopted process must require a determination by a local government that including an individual material in their recyclable commingled collection program provides either an economic benefit based on a cost-benefit analysis or an environmental benefit based on a lifecycle analysis. DOE must review each city or county proposal for consistency with a goal of increasing the consistency of statewide curbside commingled recyclable material programs.

DOE may adopt rules related to implementation and enforcement, and may issue interim guidance consistent with stakeholder work group recommendations. By January 1, 2021, DOE must also gather life-cycle analysis and economic data on recyclable materials and make it available to local governments for use in their analyses designating recyclable materials.

Disposal of Recyclable Materials. DOE must develop a process to keep track of and provide for management and disposal of collected recyclable materials by material recovery facilities, the UTC-regulated collection companies, and municipal collection contractors. These entities may notify DOE within 24 hours of transport for disposal, and DOE must grant a waiver when an entity demonstrates:

- the material cannot be collected and transported for recycling at less than the cost of collection and transport for disposal;
- lacks positive market value; or
- poses a risk to human health, safety, or the environment.

DOE must issue waivers within seven days and develop a process allowing for waiver renewal. To maintain the waiver, these entities must provide monthly updates documenting the quantities of materials and locations of disposal.

Recyclable materials covered by a waiver may be disposed of in nonobservance of local laws and ordinances, and are not subject to local fines or penalties. Provisions in contracts that would penalize an entity for disposing recyclable materials are void and unenforceable. DOE must develop a renewal process to allow a waiver for an additional 180 days.

DOE must track and make public information about recyclable material disposal.

Public Outreach and Education Campaign. By January 1, 2020, DOE must conduct a statewide, coordinated public outreach and education campaign for sustainable recycling practices. The campaign must be designed to:

- reduce contamination of recyclable materials;
- prioritize a sustainable recycling system that maximizes the economic and environmental benefits of collected materials;
- promote a statewide list of recyclable materials for commingled recycling programs; and
- emphasize to consumers that recycling is not a cost-free activity, improve consumer education about their role in solid waste management, direct consumers to place items in waste bins if unsure whether an item is recyclable, and emphasize recycling only clean, empty, and dry recyclables.

Other Provisions. Cities and counties contracting for the collection of source separated recyclable materials must ensure billings and customer rate increase notifications include the cost of each provided service or a description of all services provided within a combined services rate.

Entities providing the collection or transportation of recyclable materials from drop boxes, recycling buy-back centers, or from commercial or industrial generators must include the cost of each service provided in all billings and customer notifications.

Commercial sites where recyclable materials are generated and transported for recycling must provide a separate, reasonably-sized container for nonrecyclable wastes. The contents of containers that contain both mixed waste and recyclable materials with incidental waste exceeding 5 percent of the total weight or volume of the container are determined to be solid waste, and must be managed as solid waste.

The state goal of a 50 percent recycling rate by 2007 is replaced with a goal of emphasizing sustainable recycling practices and increasing the quality of Washington's recyclables.

Under solid waste financial assistance programs and grants, DOE must make eligible for funding any costs to cities and counties from implementing the act's changes to solid waste and recycling requirements.

The changes to solid waste laws in the act are subject to a JLARC sunset review and termination, effective July 1, 2024.

Appropriation: None.

Fiscal Note: Requested on February 7, 2019.

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

Effective Date: The bill contains an emergency clause and takes effect immediately.