

SENATE BILL REPORT

SB 5857

As of January 24, 2022

Title: An act relating to dedicating funding from the model toxics control accounts for pollution cleanup, water flow management, water supply, and aquatic resource protection.

Brief Description: Concerning dedicating funding from the model toxics control accounts for pollution cleanup, water flow management, water supply, and aquatic resource protection.

Sponsors: Senators Braun, Muzzall, Schoesler, Sefzik and Short.

Brief History:

Committee Activity: Environment, Energy & Technology: 1/25/22.

Brief Summary of Bill

- Removes the 60 percent distribution of hazardous substance tax (HST) revenues to the Model Toxics Control (MTCA) Operating Account.
- Increases HST revenue distributions to the MTCA Capital and Stormwater accounts to 50 percent each.
- Renames the MTCA Stormwater Account as the MTCA Stormwater and Water Infrastructure Account and adds eligible uses to include drought mitigation and water flow management.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Staff: Gregory Vogel (786-7413)

Background: Model Toxics Control Act. The Model Toxics Control Act (MTCA), which is administered and enforced by the Department of Ecology (Ecology), requires liable parties to clean up sites contaminated with hazardous substances, and authorizes Ecology to conduct pollution prevention activities.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Hazardous Substance Tax. The Hazardous Substance Tax (HST) applies to more than 8000 hazardous substances, including petroleum products and certain chemicals and pesticides. The person or business that takes first possession of a hazardous substance within Washington is responsible for paying the tax.

In 2019, the Legislature changed the HST from a value-based tax on petroleum products to a volumetric tax. Previous MTCA accounts were repealed and replaced with the MTCA Operating Account, the MTCA Capital Account, and the MTCA Stormwater Account.

The volumetric rate for petroleum products was established at \$1.09 per 42-gallon barrel, but may be adjusted annually according to the implicit price deflator for nonresidential construction. As of July 1, 2021, the tax rate is \$1.14 per barrel. The tax rate for other taxable hazardous substances is 0.7 percent of the wholesale value.

The first \$50 million per biennium of HST revenue from petroleum products is deposited into the state Motor Vehicle Fund, until the enactment of an additive transportation funding act. This revenue must be used exclusively for transportation stormwater purposes. The remaining HST revenue from petroleum products is deposited into the three MTCA accounts:

- 60 percent into the MTCA Operating Account;
- 25 percent into the MTCA Capital Account; and
- 15 percent into the MTCA Stormwater Account.

HST revenue from all other hazardous substances, including non-liquid petroleum products and certain pesticides and chemicals, is deposited into the MTCA Capital Account.

More than 95 percent of revenue deposited in the MTCA accounts comes from HST revenue. The remaining 5 percent comes from fees, cost recovery, fines, and other sources.

The MTCA Operating Account must be used for various environmental programs, including toxic cleanup, water quality, and air quality. The MTCA Capital Account must be used for the improvement, rehabilitation, remediation, and cleanup of toxic sites. The MTCA Stormwater Account must be used for operating and capital programs, activities, and projects relating to stormwater pollution control.

Summary of Bill: The 60 percent distribution to the MTCA Operating Account from HST revenues collected on petroleum products is removed. The distributions of HST revenues collected on petroleum products to the MTCA Capital Account and the renamed MTCA Stormwater and Water Infrastructure Account are both increased to 50 percent. The HST volumetric rate on petroleum products is no longer required to be adjusted to reflect the percentage change in the implicit price deflator for nonresidential structures.

The MTCA Stormwater Account is renamed the MTCA Stormwater and Water Infrastructure Account. Moneys in the account must be used for operating and capital

programs, activities, and projects relating to stormwater pollution control, drought mitigation, and water flow management. Moneys in the account must be used only to carry out the operating and capital programs, activities, and projects relating to:

- the MTCA Operating Account;
- the MTCA Capital Account;
- drought emergencies;
- grants to reduce hardship caused by water unavailability stemming from drought conditions;
- long-term flood damage reduction and aquatic species restoration in the Chehalis River Basin;
- providing access to new water supplies within the Columbia River Basin for both instream and out-of-stream uses;
- water conservation projects; and
- the Yakima River Basin Integrated Water Resource Management Plan.

These programs, activities, and projects may include, but are not limited to:

- stormwater pollution control projects and activities that protect or preserve existing remedial actions or prevent hazardous clean-up sites;
- stormwater financial assistance to local governments that assist in compliance with MTCA;
- drought mitigation, planning, and prevention; and
- water infrastructure and supply as provided by the Office of Columbia River, the Yakima Basin Integrated Plan, and the Office of Chehalis Basin.

An intent statement is added to state that the purpose of MTCA is also to help achieve environmental protection through stormwater management, water flow management, and increased resiliency for aquatic resources.

Appropriation: None.

Fiscal Note: Requested on January 13, 2022.

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

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