

HOUSE BILL REPORT

SSB 6164

As Reported by House Committee On:

Innovation, Community & Economic Development, & Veterans

Title: An act relating to county emergency management plans.

Brief Description: Concerning county emergency management plans.

Sponsors: Senate Committee on Local Government, Land Use & Tribal Affairs (originally sponsored by Senator Wagoner).

Brief History:

Committee Activity:

Innovation, Community & Economic Development, & Veterans: 2/14/24, 2/20/24 [DPA].

**Brief Summary of Substitute Bill
(As Amended by Committee)**

- Requires local communication plans to expeditiously notify citizens who are at risk during a Type 1 or Type 2 hazardous material spill or release.
- Requires the Department of Ecology to provide at least one public meeting to inform the public about the hazardous material spill or release.
- Specifies attendance, scheduling, and technology requirements for the public meeting.
- Defines a Type 1 and Type 2 hazardous material spill or release.

HOUSE COMMITTEE ON INNOVATION, COMMUNITY & ECONOMIC DEVELOPMENT, & VETERANS

Majority Report: Do pass as amended. Signed by 14 members: Representatives Ryu, Chair; Donaghy, Vice Chair; Rule, Vice Chair; Volz, Ranking Minority Member; Barnard,

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.

Assistant Ranking Minority Member; Caldier, Chambers, Christian, Cortes, Paul, Senn, Shavers, Street and Waters.

Staff: Martha Wehling (786-7067).

Background:

Emergency Management.

The Washington Military Department, under the direction of the Adjutant General, administers the state's comprehensive program of emergency management. The state's Comprehensive Emergency Management Plan provides the framework for statewide mitigation, preparedness, response, and recovery activities.

Hazardous Materials.

Each political subdivision's governing body is required to designate a hazardous materials incident command agency. An "incident command agency" is the predesignated or appointed agency charged with coordinating all activities and resources at the incident scene. "Hazardous materials" are defined as materials:

- which may cause unacceptable risks to human life within a specified area adjacent to a spill, seepage, fire, explosion, or other release, and which will require evacuation if not contained;
- that, if spilled, could cause unusual risks to the general public and to responding emergency response personnel;
- that, if involved in a fire, will pose unusual risks to emergency response personnel;
- requiring unusual storage or transportation conditions to assure safe containment; or
- requiring unusual treatment, packaging, or vehicles during transportation to assure safe containment.

A "political subdivision" for hazardous material incidents is a city, town, county, fire district, or a port authority with emergency response capabilities.

The Director of the Department of Ecology is the head of the state incident command system in response to a spill of oil or hazardous substances in the navigable waters of the state and is required to coordinate the response efforts of all state agencies and local emergency response personnel. In 2023 there were 2,619 hazardous material spills or releases that required an incident command system.

Local or Joint Local Organization for Emergency Services or Management.

A "local organization for emergency services or management" is an organization created by a state or local authority to perform local emergency management functions. "Emergency management" means the preparation for and carrying out of all emergency functions to mitigate, prepare for, respond to, and recover from emergencies and disasters. Emergency management does not include functions for which the military forces are primarily responsible. Local organizations may also be a member of a joint local organization for

emergency services or management.

Local Communication Plans.

Local organizations or joint local organizations for emergency services or management must include a communication plan in the local comprehensive emergency plan. A "communication plan" is a section in the plan that addresses emergency notification of life safety information. "Life safety information" is information provided to people during a response to a life-threatening emergency or disaster informing them of actions they can take to preserve their safety. The information may address evacuation, sheltering-in-place, facility lockdown, and where to obtain food and water. Consultation with affected community organizations is recommended when the local organization develops the communication plan.

Local communication plans must specify the use of the incident command system for multijurisdictional or multiagency operations, must be submitted to the Emergency Management Division of the Military Department, and must be implemented. The plans must be reviewed on a schedule specified by the Adjutant General.

County Public Meetings.

Each county's legislative authority is required to hold regular meetings at the county seat or a designated location to transact business. Meetings may be held at other locations when certain conditions are met.

A special meeting may be called by the presiding officer or a majority of the members and requires written notice, delivery to all local media that have requested notice, posting on the agency's website, and prominent display at the agency's principal location and meeting site. The notice must be delivered and posted at least 24 hours before the special meeting time and must identify the business to be transacted. A special meeting may not include action on business not included in the notice.

The additional notice requirements for a special meeting are not required for emergencies involving injury, damage, or likely injury or damage to persons or property when the time requirements would make the notice impractical and increase the likelihood of injury or damage, or when the notice cannot be posted or displayed with reasonable safety, such as a declared emergency in which travel to physically post notice is barred or advised against.

Summary of Amended Bill:

Communication Plan.

The local or joint local organization for emergency services or management's communication plan must include an expeditious notification to citizens who are reasonably determined to be at risk during a Type 1 or Type 2 hazardous material spill or release.

Type 1 and Type 2 Hazardous Material Spill or Release.

A Type 1 hazardous material spill or release is defined as a spill or release of national significance. The Department of Ecology will activate its Crisis Management Team, Incident Management Team, command, and general staff. The Governor's Office and federal agency officials will be involved. Area command will be established, as will the Department of Ecology's Spills Program Manager. A National Incident Commander may be established.

A Type 2 hazardous material spill or release is defined as a large or major incident of long duration that will go into multiple operational periods, includes a spill of significant products, and threatens numerous sensitive sites. The Department of Ecology will activate its Crisis Management Team, Incident Management Team, Unified Command at an appropriate post, and most or all of its command or general staff positions. A written Incident Action Plan will be required for each operational period. Other Incident Management Teams, such as industry, federal, or local, may be required. Resources may be required from other states. Area command may be required.

Public Meetings.

When a Type 1 or Type 2 hazardous material release or spill occurs, the Department of Ecology must provide at least one public meeting. The public meeting must inform the public about the hazardous material spill or release, allow for remote participation if technologically feasible, and include representatives from the local organization for emergency services or management and the party responsible for the hazardous material spill or release. The public meeting may be held jointly with a county legislative authority's regularly scheduled or special meeting.

Amended Bill Compared to Substitute Bill:

The striking amendment:

- limits the communication plans and public meetings to Type 1 or Type 2 hazardous material spills or releases, rather than any spill that activates an Incident Command System;
- removes the requirement that notification to the public be by the most appropriate technology;
- defines Type 1 and Type 2 hazardous materials spills or releases;
- requires the Department of Ecology to provide public meetings, rather than the local organization for emergency services or management;
- requires the public meeting to be remote if technologically feasible, rather than requiring remote participation;
- removes the Washington Department of Fish and Wildlife from required attendance at the public meeting;
- requires the Department of Ecology and local organization for emergency services or management to attend the public meeting; and
- requires the party responsible for the spill, rather than liable for the spill, to attend the

public meeting.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 20, 2024.

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

Staff Summary of Public Testimony:

(In support) Earlier this year, there was a gasoline leak in a pipeline and 28,000 gallons went into a creek towards the Skagit River. Fortunately, the leak never made it to the river. There was a very robust response and good work. However, there was one little fumble, which was providing fast notification to the people likely to be affected. This is problematic because the same pipeline had a similar spill in Whatcom County in 1999, which ran down a creek, where children were playing with fireworks, and there was an explosion that caused four deaths. In the incident earlier this year, the people were not notified in a timely fashion though the creek ran through their property, and someone could have dropped a cigarette off the bridge over the creek, or children could have been playing with fireworks in the creek again; it could have been much worse.

The bill does two things: requires swift notification and a public meeting. It serves as a reminder to local emergency management that people who are likely to be affected need to be notified in an expeditious manner. There were lots of meetings, but not meetings where the public was expressly invited to raise their concern. The feedback on the original bill was that it was overreaching because it covers several thousand incidents every year, but the proposed striker narrows the intent. The objective is big things that affect people, not a one-gallon spill in a rail yard. Type 2 spills, out of the five categories on the national hierarchy of incidents, should be included. Those are spills that have a high resistance to stabilization, significant impacts on the population, and may require evacuations of several days to months. It meets the threshold for people having a say or hearing what is being done to respond.

(Opposed) None.

(Other) The bill contains a requirement for local communication plans to include expeditious notification to citizens reasonably determined to be at risk in a hazardous material spill. This is already addressed in local communication plans, making the bill redundant, but not damaging. The community meetings are problematic due to their scale and scope. Local city or county governments are not well suited for the response because they do not have primary response obligations. The Department of Ecology is the primary response agency and has technical experience and technical staff. The broadness of the

bill's application causes concern because an incident command system is a very broad term. Incident command is used on all hazardous materials responses to which fire districts respond. This would broaden the agency's exposure for notifications and requirement to hold public meetings. Participating with local emergency planning commissions would also burden the workload. In Thurston County, one fire district would be required to hold an additional 92 public meetings per year.

Adding a threshold to narrow the type of incidents is appropriate. The appropriate agency should handle the meetings. The Department of Ecology is who fire districts work with when there is a hazardous materials incident. It makes sense to move the requirements to the hazardous materials RCW. The proposed striker addresses the concerns. The Department of Ecology said that the spill earlier this year was somewhere between a Type 2 and a Type 3.

Persons Testifying: (In support) Senator Keith Wagoner, prime sponsor.

(Other) Robert Ezelle, Washington Military Department, Emergency Management Division; Lindsey Hueer, Association of Washington Cities; Leonard Johnson, Washington Fire Chiefs Association; and Julie de Losada, Washington State Emergency Management Association .

Persons Signed In To Testify But Not Testifying: None.