

# HOUSE BILL REPORT

## HB 2598

---

### As Passed Legislature

**Title:** An act relating to disposal of dredged riverbed materials from the Mount St. Helen's eruption

**Brief Description:** Concerning the disposal of dredged riverbed materials from the Mount St. Helen's eruption.

**Sponsors:** Representatives Takko, Blake and Herrera.

#### **Brief History:**

##### **Committee Activity:**

Agriculture & Natural Resources: 1/21/10, 1/28/10 [DP].

##### **Floor Activity:**

Passed House: 2/10/10, 96-0.

Passed Senate: 2/27/10, 43-0.

Passed Legislature.

#### **Brief Summary of Bill**

- Changes the instances when a landowner may sell, transfer, or dispose of dredge spoils removed from the rivers adjacent to Mount St. Helens without paying compensation to the Department of Natural Resources (DNR), so that any landowner who receives dredge material before the end of the year 2035 may sell those materials without paying compensation as long as the materials have not already been sold or transferred prior to the effective date of the legislation.
- Removes the requirement that a landowner must provide written notification to the DNR prior to selling or using Mount St. Helens dredge materials and that the DNR must report each biennium to the Legislature a summation of the amount of revenue that would have otherwise been due to the DNR from the use of those dredge materials had they not been exempted from the compensation requirements.

---

### HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

---

*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:** Do pass. Signed by 13 members: Representatives Blake, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Smith, Assistant Ranking Minority Member; Jacks, Kretz, Liias, McCoy, Nelson, Pearson, Rolfes, Van De Wege and Warnick.

**Staff:** Jason Callahan (786-7117).

**Background:**

Aquatic Lands.

The Washington Constitution declares that the beds and shores of all navigable waters in Washington are owned by the state. The Legislature subsequently designated the Department of Natural Resources (DNR) as the steward of these lands. The DNR acts as a proprietor, subject to legislative direction, of all state-owned aquatic lands and holds these lands in trust for all current and future residents of the state.

The Legislature has also vested specific authority for the DNR to sell valuable resources from state lands. The DNR sells a variety of resources from state lands, including timber, stone, gravel, and geoducks. When a valuable material is removed from state-owned aquatic lands, the proceeds of the sale are split evenly between the DNR's aquatic lands program and the Aquatic Lands Enhancement Account.

Mount St. Helens.

The 1980 eruption of Mount St. Helens caused a significant amount of material to enter several of Washington's navigable rivers' systems. These rivers were subsequently dredged, and much of the dredge spoil was deposited on the public and private land adjacent to the riparian areas.

Between 1980 and 1995, dredge spoils could be removed without paying the DNR for the value of the materials from the shores of the Toutle River, the Coweeman River, and the section of the Cowlitz River from two miles above its confluence with the Toutle River to its mouth. This authorization expired on December 31, 1995.

In 2009 the Legislature revisited the authorization to receive dredge spoils without paying compensation to the DNR. Today, any landowner that had received materials dredged from the Coweeman River, Toutle River, or a specified segment of the Cowlitz River onto his or her property *prior to* January 1, 2009, may sell, transfer, or otherwise dispose of the materials without having to pay compensation to the DNR if the materials were removed from the rivers for the benefit of navigation or flood control.

Any dredge spoils removed from the specified rivers between January 1, 2009, and December 31, 2017, may only be sold, transferred, or disposed without paying compensation to the DNR if the land where the materials are located was not used as a source for the commercial sale of similar materials prior to the beginning of the year 2009. If a landowner was ineligible to sell the material without paying compensation based on commercial activities prior to 2009, then the materials may only be used without paying the DNR

compensation; however, any commercial sale of the materials would require the payment of compensation.

Prior to removing and selling materials, a landowner must notify the DNR as to how much of what type of material is being removed. The DNR is required to provide a biennial report to the Legislature that provides a summation of funds that would have accrued to the state if landowners were required to compensate the DNR for the materials.

**Summary of Bill:**

The instances when a landowner may sell, transfer, or dispose of dredge spoils removed from beds and shores of the Toutle, Coweeman, and Cowlitz Rivers without paying compensation to the DNR is changed. Any landowner who receives dredge material before the end of the year 2035 may sell those materials without paying compensation to the DNR as long as the materials have not already been sold or transferred prior to the effective date of the legislation.

The requirement that a landowner must provide written notification to the DNR prior to selling or using the dredge materials is removed. Likewise, also removed is the requirement that the DNR report each biennium to the Legislature a summary of the landowner notifications and a summation of the amount of revenue that would have otherwise have come to the DNR from the use of those dredge materials had they not been exempted from the compensation requirements.

**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:**

(In support) The eruption of Mount St. Helens filled, and continues to fill, area waterways with an extreme amount of sediment. The sediment is filling the rivers and interfering with dams, and as a result, needs to be dredged annually. However, there are very few places left where the dredged materials can be stored, and no one wants to accept this material on their land if they have to pay for the right to accept it. This bill corrects the bill on the same subject passed last year so that property owners will be willing to accept the material. The current law has too many hurdles and requirements.

Dredging the rivers is very important to the public safety in Cowlitz County. If the rivers are not dredged, then flooding will happen in the area. It is the county's responsibility to find adequate sites, but the state has to pay for the disposal.

The dredged sand has some value, but since there are millions of yards of sand available to be used royalty free, there is no market for the sand that requires royalty payments.

(Opposed) None.

**Persons Testifying:** Representative Takko, prime sponsor; and Axel Swanson, Cowlitz County.

**Persons Signed In To Testify But Not Testifying:** None.