

# HOUSE BILL REPORT

## HB 2627

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### As Reported By House Committee On:

Natural Resources  
Appropriations

**Title:** An act relating to surface mining.

**Brief Description:** Regulating surface mining.

**Sponsors:** Representatives Elliot and Sheldon.

### Brief History:

#### Committee Activity:

Natural Resources: 1/30/96, 2/2/96 [DPS];  
Appropriations: 2/3/96 [DP2S(w/o sub NR)].

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## HOUSE COMMITTEE ON NATURAL RESOURCES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Fuhrman, Chairman; Buck, Vice Chairman; Pennington, Vice Chairman; Basich, Ranking Minority Member; Elliot; Hatfield; Jacobsen; Keiser; Sheldon; Stevens; B. Thomas; L. Thomas and Thompson.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Regala, Assistant Ranking Minority Member.

**Staff:** Linda Byers (786-7129).

### Background:

#### Surface Mining in Washington

There are more than 1,500 surface mines in Washington, the majority of which are sand and gravel operations. The state's surface mining reclamation program is administered by the Department of Natural Resources (DNR). Statute provides a definition of what constitutes a "surface mine."

#### Delegation of Authority to Local Governments

Under current law, DNR may delegate some or all of its enforcement authority for regulating surface mine reclamation to a county, city, or town.

#### State Surface Mining Fees

An applicant for a state surface mining reclamation permit pays a \$650 application fee to the department. Since June 30, 1993, each permit holder has also been required to pay an annual permit fee of \$650. These fees are deposited in the Surface Mining Reclamation Account and are used to administer the state reclamation program. The Legislature also provided DNR with the authority to modify the annual permit fees by rule.

#### State Consulting Service

DNR may provide no-cost consulting to assist miners, permit holders, local governments, and the public in technical matters related to mine regulation, mine operations, and reclamation.

#### Metals Mining

Current law provides for special inspection requirements for metals mining operations to ensure that a metals mining operation is in compliance with state reclamation requirements. Those provisions appear in the surface mining chapter.

### **Summary of Substitute Bill:**

#### Definition of a Surface Mine

The definition of a surface mine is amended to exclude expressly excavations or grading used as part of an approved development plan where (1) the local government finds that the excavation is an essential part of the development; (2) the local government finds that the final site and grading plans constitute complete reclamation of the site; and (3) the local government and the applicant for a proposed subsequent land use agree in writing.

#### Delegation of Authority to Local Governments

DNR's ability to delegate its enforcement authority for regulating surface mine reclamation to a local government is eliminated.

#### State Surface Mining Fees

DNR's authority to modify annual permit fees by rule is eliminated.

## State Consulting Service

DNR must provide a no-cost consulting service to assist miners, permit holders, local government, and the public in technical matters related to mine regulation, mine operations, and reclamation.

## Metals Mining

The special inspection requirements for metals mining operations are moved from the surface mining chapter to the metals mining chapter.

**Substitute Bill Compared to Original Bill:** The original bill addresses a much wider range of issues, including a statutorily-defined role for local governments in the regulation of surface mining operations. The substitute bill focuses on a narrower set of issues: an exclusion from the definition of "surface mine;" DNR delegation of enforcement authority to local governments; modification of annual permit fees by rule; DNR's provision of free consulting services; and the placement of a provision regarding the inspection of metal mines.

**Appropriation:** None.

**Fiscal Note:** Requested on substitute bill on February 2, 1996.

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

**Testimony For:** (first proposed substitute) The local government part of this bill addresses the whole question of whether or not mine applicants get permits, and of who is in control. It is language similar to what the Governor vetoed previously. Counties want to be able to regulate everything. Mine operators want predictability about what they will be judged on and about what they will have to mitigate. The developments identified here should not be considered surface mines. Annual permit fees should stay in statute. We support more funding for DNR to take over enforcement in King County, and to implement the consulting service.

**Testimony Against:** (first proposed substitute) There are still concerns about specific language, for example, about the change in the definition of "surface mine" and language about "control," which could free many mines of the obligation to do reclamation. There will be a small fiscal impact to DNR. Fish and Wildlife has a concern about the exemption of three-acre mines; the agency would like consideration of impacts to wildlife in siting decisions. Local communities through their local governments should be able to impose regulations for mining operations. Counties have a concern with only using performance-based standards; there may be times when they will need to think about hours of operation. The state and counties have

concurrent authority for things like water quality; if the state doesn't act, the counties need to be able to respond at the local level. King County should be allowed to keep its program. Other Growth Management Act language says that the state is supposed to be consistent with local decisions, not the other way around.

**Testified:** Mark Triplett, Washington Aggregate and Concrete Association (in favor); Art Stearns, Department of Natural Resources; and Scott Merriman, Washington Environmental Council (both with concerns); Paul Parker, Washington State Association of Counties (opposed); and Cyreis Schmitt, Department of Fish and Wildlife.

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Natural Resources. Signed by 25 members: Representatives Huff, Chairman; Clements, Vice Chairman; Pelesky, Vice Chairman; H. Sommers, Ranking Minority Member; Beeksmas; Brumsickle; Carlson; Chappell; Cooke; Crouse; Dyer; Foreman; Grant; Hargrove; Hickel; Kessler; Lambert; Linville; McMorris; Poulsen; Reams; Sehlin; Sheahan; Talcott and Wolfe.

**Minority Report:** Without recommendation. Signed by 3 members: Representatives Valle, Assistant Ranking Minority Member; Dellwo and Rust.

**Staff:** Nancy Stevenson (786-7137).

**Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Natural Resources:** A requirement is added to make the bill null and void unless funding is provided in the supplemental budget.

**Appropriation:** None.

**Fiscal Note:** Requested on substitute bill on February 2, 1996.

**Effective Date** Ninety days after adjournment of session in which bill is passed. However, the bill is null and void if not funded in the budget.

**Testimony For:** We support more funding for the Department of Natural Resources to take over enforcement in King County, and to implement the consulting services established in the bill.

**Testimony Against:** None.

**Testified:** Mark Triplett, Washington Aggregate & Concrete Association.