

HOUSE BILL REPORT

SHB 2051

As Passed Legislature

Title: An act relating to exempting from taxation remedies and remedial actions regarding hazardous waste.

Brief Description: Exempting from taxation remedies and remedial actions taken regarding hazardous waste.

Sponsors: By House Committee on Agriculture & Ecology (originally sponsored by Representatives Chandler, Linville, Regala, Mastin, D. Schmidt, Grant, Veloria, Clements, Cody and Parlette).

Brief History:

Committee Activity:

Agriculture & Ecology: 2/24/97, 2/27/97 [DPS];
Finance: 3/10/97 [DPS(AGEC)].

Floor Activity:

Passed House: 3/19/97, 96-1;
Passed House: 1/16/98, 93-0.
Senate Amended.
House Concurred.
Passed Legislature.

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Chandler, Chairman; Parlette, Vice Chairman; Schoesler, Vice Chairman; Linville, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Cooper; Delvin; Koster; Mastin; Regala and Sump.

Staff: Rick Anderson (786-7114).

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill by Committee on Agriculture & Ecology be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives B. Thomas, Chairman; Carrell, Vice Chairman; Mulliken, Vice Chairman; Boldt, Assistant Ranking Minority Member; Butler; Conway; Kastama; Morris; Pennington; Schoesler; Thompson and Van Luven.

Minority Report: Do not pass. Signed by 3 members: Representatives Dunshee, Ranking Minority Member; Dickerson, Assistant Ranking Minority Member; and Mason.

Staff: Rick Peterson (786-7150).

Background: The state Model Toxics Control Act, adopted as an initiative in 1988, requires the cleanup of contaminated sites. Sites with hazardous waste contamination must be reported to the Department of Ecology. The department must conduct an initial investigation of a known and reported site, followed by a site hazard assessment. If the result of the site hazard assessment shows that the site will require further cleanup action, the site is placed on the department's hazardous sites list.

At any point in the investigation and assessment process, a person may choose to conduct an independent cleanup without Department of Ecology oversight. When an independent cleanup is completed, the cleanup results must be reported to the Department of Ecology. Currently approximately 90 percent of site cleanups, mostly leaking underground storage tanks, are conducted independently.

Contractors and subcontractors conducting hazardous waste cleanup services perform a number of different activities at a cleanup site. These activities include site development such as excavation of uncontaminated soil, paving, and landscaping, and activities directly related to the cleanup, such as the removal of contaminated soil or water. Prior to 1989, some of these activities fell under one (B&O) tax rate, other activities at another B&O tax rate. In 1989, the Department of Revenue adopted a policy which exempts site cleanups from state sales tax on cleanup activities and provides a uniform B&O tax rate if certain conditions are met. However, the policy applies only to hazardous waste sites that have been placed on the Department of Ecology's hazardous sites list. Currently, businesses contracting for cleanups at a listed site are charged at the B&O tax rate for services which is a rate of 1.75 percent (1.5 percent beginning July 1, 1998) but do not pay the sales tax on their services but do pay the sales tax on purchases of materials. Businesses contracting cleanups independently are charged at the lower B&O retailing rate of 0.471 percent but pay the sales tax on the service and on their purchases of materials and labor. Special rates have been established for the taxation of clean-up activities at the Hanford site.

Summary of Bill: Labor and services provided for environmental remedial actions are exempted from retail sales taxation and the B&O tax rate for such actions is set at 0.471 percent. This uniform taxation for the activities is provided until July 1, 2003, and applies to such actions conducted, supervised, or ordered by the Department of Ecology (DOE) under the state's Model Toxics Control Act as well as those that are, on the whole, substantially equivalent to such actions. It also applies to such actions conducted under the supervision or order of the U.S. Environmental Protection Agency or that are consistent the national contingency plan adopted under the federal Comprehensive Environmental Response Compensation and Liability Act and conducted at facilities included on the national priorities list or subject to a removal action under the federal act. Certification regarding the action must be provided the DOE and to the Department of Revenue (DOR); the DOR must confirm receipt of the certification. The owner of a site on which such activities are conducted must provide a copy of the confirmation to each person who takes the remedial actions at the site and these persons must identify the charges for the labor and services for their actions. The site owner must submit to the DOE a report documenting the remedial actions taken and compliance with the state act when the actions are completed. Certain penalties provided by current law apply to a person who falsifies or misrepresents statements in a certification. In addition, a penalty of 50 percent of the tax due plus interest must be assessed against a person who improperly reports the person's tax class. However, requires the penalty is to be waived if the misreporting was due to circumstances beyond the person's control.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on March 11, 1997.

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

Testimony For: (Agriculture & Ecology) This bill is one of two bills recommended by the Model Toxics Control Act Policy Advisory Committee. There was broad support for this bill in the Policy Advisory Committee. The current tax policy for hazardous waste cleanup is discriminatory. This bill will treat all parties uniformly. A clear distinction between remediation activities and site development activities is needed.

(Finance) Under the current tax situation the owner of a cleanup site pays a higher tax on the cleanup activity if they clean up right away. The lower tax is available if the owner waits to be put on the designated list. Waiting may allow the contamination to spread. The tax system should not encourage delayed cleanup. This uniform tax treatment is a recommendation of the Model Toxics Control Act Advisory Committee.

Testimony Against: (Agriculture & Ecology) None.

(Finance) None.

Testified: (Agriculture & Ecology) Mary Burg, Department of Ecology (pro); Jerry Smedes, Washington Environmental Industry Association (pro); Eric Johnson, Washington Public Ports Association (pro); and Anne Solwick, Department of Revenue (neutral).

(Finance) Representative Chandler, prime sponsor; and Dr. Jerry Smedes, Washington Environmental Industry Association.