

SENATE BILL REPORT

ESSB 5432

As Passed Senate, March 15, 2005

Title: An act relating to the oil spill advisory council.

Brief Description: Creating the oil spill advisory council.

Sponsors: Senate Committee on Water, Energy & Environment (originally sponsored by Senators Spanel, Swecker, Poulsen, Doumit, Regala, Rockefeller, Pridemore, Haugen, Kohl-Welles, Fraser, Jacobsen, Shin and Kline).

Brief History:

Committee Activity: Water, Energy & Environment: 2/8/05, 2/22/05 [DPS-WM, DNP].

Ways & Means: 3/4/05, 3/7/05 [DPS(WEE), DNP, w/oRec].

Passed Senate: 3/15/05, 29-17.

SENATE COMMITTEE ON WATER, ENERGY & ENVIRONMENT

Majority Report: That Substitute Senate Bill No. 5432 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Poulsen, Chair; Rockefeller, Vice Chair; Fraser, Pridemore and Regala.

Minority Report: Do not pass.

Signed by Senators Morton, Ranking Minority Member; Hewitt and Honeyford.

Staff: Richard Rodger (786-7461)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5432 as recommended by Committee on Water, Energy & Environment be substituted therefor, and the substitute bill do pass.

Signed by Senators Prentice, Chair; Doumit, Vice Chair; Fraser, Vice Chair; Fairley, Kohl-Welles, Pflug, Pridemore, Rasmussen, Regala, Rockefeller and Thibaudeau.

Minority Report: Do not pass.

Signed by Senators Zarelli, Ranking Minority Member; Hewitt, Roach and Schoesler.

Minority Report: That it be referred without recommendation.

Signed by Senator Brandland.

Staff: Steve Jones (786-7440)

Background: In response to the oil spill from the Exxon Valdez in April 1989, Congress passed the Oil Pollution Act of 1990 (referred to as "OPA 90"). The act created two regional

citizen advisory councils (RCAC) in the State of Alaska, one for Prince William Sound and one for Cook Inlet.

The councils provide citizen oversight of environmental safety issues that seek to minimize the risk of oil spills and other environmental impacts, and enhance oil spill prevention and response. The councils specific duties include: providing advice and making recommendations relating to the oil terminal, oil tankers, and port; monitoring terminal and tanker operations; and reviewing the adequacy of oil spill prevention and contingency plans.

Congress requires the owners or operators of the terminal facilities or crude oil tankers operating in the region to provide annual funding of up to \$2,000,000 for the Prince William Sound RCAC and \$1,000,000 for the Cook Inlet RCAC (adjusted by the consumer price index).

In OPA 90, Congress made the following finding in regards to citizen involvement in monitoring oil operations: "[S]imilar programs should be established in other major crude oil terminals in the United States because recent oil spills...indicate that the safe transportation of crude oil is a national problem."

Summary of Bill: A Citizens' Oil Spill Advisory Council (council) is created in the Office of the Governor to maintain the state's vigilance in the prevention of oil spills, while recognizing the importance of also improving preparedness and response. The council is advisory only. The council's focus is on state's marine waters covering Hood Canal, Puget Sound, the Strait of Juan de Fuca, the Pacific Ocean, and the Columbia River estuary.

The council is composed of fifteen members appointed by the Governor, plus two invited tribal representatives. The appointed members include: three representatives of environmental organizations; one representative of commercial shellfish interests; one representative of commercial fisheries that primarily fishes in Washington waters; one representative of marine recreation; one representative of tourism interests; three representatives of county government from three specified areas; two representatives of marine trade interests; one representative of major oil facilities; one representative of public ports; and one individual who resides on a shoreline who has an interest, experience, and familiarity in the protection of water quality.

Appointments to the council must reflect a geographical balance and the diversity of populations within the areas potentially affected by oil spills in state waters. Members serve four-year terms and are reimbursed for travel expenses related to their duties. The chair must be elected from the council's members and serves for a term of two years. The council meets at least four times a year, with specified locations for three of the meetings. To the extent possible, decisions of the council must be by consensus.

The duties of the council include: the hiring of professional staff and expert consultants to support its work; consultation with government decision makers on all aspects of the state's oil spill programs and activities; providing independent advice, expertise, research, monitoring, and assessment of these programs; monitoring and providing information regarding state of the art programs; evaluating incident response reports; seeking and promoting citizens involvement.

The council also serves as an advisory body on, and provides for stakeholder and public consideration of, matters relating to international, national, and regional oil spill issues.

The council makes annual recommendations for the continuing improvement of the state's oil spill prevention, preparedness, and response. By December 15, 2005, the council must make proposals for the long-term funding of the council's activities and for the long-term sustainable funding for oil spill preparedness, prevention, and response activities.

A nonappropriated account is created to receive gifts, grants, and appropriations.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: Yes.

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

Testimony For: The state must increase its efforts to enhance oversight in the programs that focus on the prevention of oil spills. The creation of a citizen advisory committee will allow people who would be directly affected by an oil spill to have a voice in the efforts to prevent spills. It will also provide the key missing ingredient to the programs focused on oil spill prevention and response. No other groups provide the oversight that a citizen committee will offer. The motive behind the creation of this committee is for the support of social and economic values, it is not an environmental organization. This is a nonregulatory way to provide input from citizens, encourage partnerships, avoid confrontations, and ensure the distribution of accurate information. There are dramatic differences between the existing response systems in Alaska and Washington - just look at the recent spills in both states. The other existing maritime groups offer citizens no assurance that their efforts will receive any response. The committee should be expanded to include government and industry ex-officio representatives. The committee should be adequately funded, or not created.

Testimony Against: The Governor's task force decided there was not enough time to study this proposal. The Department of Ecology has commissioned a study, the legislature should wait for the results that are due next month. There are twenty-five other committees/task forces that deal with vessels in Washington waters, with lots of opportunities for citizen & stakeholder involvement. Adding another layer of bureaucracy doesn't make sense. The legislature should review the oversight capabilities of those existing groups and fill any gaps there, rather than create another committee. The council includes no representatives from the petroleum or shipping industries. This bill does not address how this committee will be funded; the Alaskan committees require three million dollars to operate.

Who Testified: PRO: Senator Spanel, prime sponsor; Marilyn Leland, Deputy Director, Prince William Sound Regional Citizens' Advisory Council (RCAC)(AK); Suzanne Little, King County Director of Parks, former AK State Senator; Kathy Fletcher, Executive Director, People for Puget Sound; Tom Copeland, citizen, former member AK RCAC; Jim Davis, Olympic Coast Alliance; Fred Fetterman, Ocean Advocates; Bill Dewey, Taylor Shellfish Company; Heath Packard, Audubon Society. OTHER: Ron Shultz, Department of Ecology; Eric Johnson, Port Association.

CON: Greg Hanon, Western States Petroleum Association; Mike Moore, Puget Sound Steamship Operators Association; Rick Wickman, Columbia River Steamship Operators Association; Llewelyn Matthews, Northwest Pulp & Paper Association; Cliff Webster, Maritime Environmental Coalition.

House Amendment(s): Adds a chair-facilitator as a nonvoting member of the Oil Spill Advisory Council. Requires that the chair-facilitator must not be a state employee or must not have a financial interest in oil spill prevention and response.

Adds an additional member representing marine labor interest to the Oil Spill Advisory Council, increasing the membership from 15 to 16 members. Authorizes members of the Oil Spill Advisory Council to be compensated on a per diem basis not to exceed \$100 per day.

Directs the Oil Spill Advisory Council to recommend long-term funding for the council and oil spill response activities by September 15, 2006 (rather than December 15, 2005). Directs the Department of Ecology to evaluate oil spill advisory committees and revise or eliminate functions which are no longer necessary. Removes definitions established for the Oil Spill Advisory Council and marine waters.

Passed the House: 61-37