

# HOUSE BILL REPORT

## ESSB 6203

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**As Reported By House Committee On:**  
Agriculture & Ecology

**Title:** An act relating to solid waste permitting.

**Brief Description:** Authorizing exemptions from solid waste designations.

**Sponsors:** Senate Committee on Agriculture & Environment (originally sponsored by Senators Morton, Fraser, Snyder and Swecker).

**Brief History:**

**Committee Activity:**

Agriculture & Ecology: 2/23/98, 2/26/98 [DPA].

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### HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

**Majority Report:** Do pass as amended. Signed by 9 members: Representatives Chandler, Chairman; Parlette, Vice Chairman; Schoesler, Vice Chairman; Linville, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Delvin; Koster; Mastin and Sump.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Cooper and Regala.

**Staff:** Kenneth Hirst (786-7105).

**Background:** The Solid Waste Management Act, adopted in 1969, and was the first statewide response to solid waste management conditions. Prior to that time, solid waste management was a local matter. The law used comprehensive solid waste management plans and disposal site permitting to carry out the objectives of the act. In 1989, the Legislature amended the solid waste law to make recycling a fundamental part of the solid waste definition. The amendment also established a 50 percent recycling rate by 1995 and clarified the state's waste management priorities.

Since 1989, recycling in Washington has increased tremendously, both in volume and types of materials recycled. In 1990, the Legislature required the Department of Ecology (DOE), in conjunction with the state Solid Waste Advisory Committee, to conduct a comprehensive review of Washington's permitting system for handling and managing solid waste.

The report submitted to the Legislature identified the following: current solid waste laws and regulations only allow for individual site-by-site permits, regardless of the type of waste and waste handling practice; opportunities for increased recycling and beneficial use of recovered materials are hampered by the uncertainties and inconsistencies surrounding permitting and regulating under existing solid waste rules; diverse recycling practices and administrative structures have led to considerable variation in how jurisdictional health departments have permitted and regulated waste recycling practices; and solid waste permitting must be viewed in the context of the other permits required, not only for air and water, but also for land use.

**Summary of Amended Bill:** The state's solid waste management laws are amended.

Beneficial Use of Solid Waste. The DOE may by rule exempt a solid waste from the permitting requirements of those laws for beneficial use. In adopting the rules, the DOE must specify both the solid waste that is exempted and the beneficial use or uses for which it is exempted. The department must consider whether the material will be beneficially used or reused and whether the use will present threats to human health or the environment.

The DOE may also exempt a solid waste for beneficial use from the permit requirements by approving an application for such an exemption. It must establish by rule procedures under which a person may apply for such an exemption and criteria for providing the exemption, including that the material will be beneficially used or reused and the use will not present threats to human health or the environment. The DOE must forward a copy of each completed application to all jurisdictional health departments which have 45 days for review and comment. A completed application must be approved or disapproved within 90 days. If the application is approved by the DOE, the solid waste is exempt from the permitting requirements when used in the manner approved. If the composition or use of the material is not consistent with the conditions of the approval, its use remains subject to permit requirements. The DOE must establish procedures by rule for providing notice of and an opportunity to comment on each application. A jurisdictional health department or applicant may appeal the department's decision on an application to the Pollution Control Hearings Board within 30 days of the decision.

Exemptions for Waste Handling Facilities. The DOE may by rule exempt from solid waste handling permit requirements any category of handling facility that it determines presents little or no environmental risk and meets the environmental protection and performance requirements required for other similar solid waste facilities. This exemption authority does not apply to a facility or category of facilities that: receives municipal solid waste destined for final disposal; applies putrescible solid waste on land for final disposal; handles mixed wastes from which those destined for disposal have not been removed; receives or processes organic waste materials into compost in volumes that generally far exceed those handled by municipal park departments, master gardening programs, and households; or receives solid waste destined for recycling or reuse if its

operation present risks to human health and the environment. The rules must contain such terms and conditions as are necessary to ensure compliance with applicable statutes and rules. If a facility does not operate in compliance with these terms and conditions, the facility is subject to permit requirements.

These authorities for exempting wastes for beneficial uses and facilities from permit requirements do not invalidate the exemptions or determinations of nonapplicability existing currently in the DOE's solid waste rules, which are confirmed subject to the DOE's continuing authority to modify or revoke them by rule.

Deference to Other Permits. The DOE must adopt rules describing when a jurisdictional health department may, at its discretion, waive the requirement that a solid waste permit be issued for a facility if other air, water, or environmental permits are issued for the same facility. This deference to other permits may be allowed only if the applicant and the health department demonstrate that other permits for the facility will provide a comparable level of protection for human health and the environment that would be provided by a solid waste handling permit. The rules are to contain such terms and conditions as necessary to ensure compliance with applicable statutes and rules. This permit waiving authority does not apply to a transfer station, landfill, or incinerator that receives municipal solid waste destined for final disposal.

If previously either the DOE or a health department deferred solid waste permitting or regulation of a solid waste facility to permitting or regulation under other environmental permits for the same facility, the deferral is deemed to be valid.

Civil Penalties. The DOE may assess a civil penalty in an amount up to \$1000 per day per violation to any person exempt from solid waste permitting under these authorities who fails to comply with the terms and conditions of the exemption. Each violation is a separate offense and each day's continuance is a separate violation.

Other. These provisions do not affect the authority of the utilities and transportation commission or its regulation of solid waste collection companies.

**Amended Bill Compared to Engrossed Substitute Bill:** The striking amendment: clarifies that the use of a solid waste for a beneficial use or reuse may be exempted from permitting requirements by rule or through an application process and removes a prohibition against providing such an exemption except through the application process; allows public notice and comment on the application rather than authorizing a review conducted by the public, the industry, and the jurisdictional health department of each determination made by DOE with regard to procedural compliance and protection of health and the environment; and clarifies the hearings board's review of DOE approvals or disapprovals of applications. With regard to a facility that may be exempted by rule from permit requirements, the striking amendment: requires that the facility meet the environmental protection and performance standards required of similar facilities and

does not allow such exemptions for facilities that handle mixed waste or receive certain amounts of compost; and terminate the exemption if the facility's operation is inconsistent with the exemption.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** (1) Some operations, such as those that simply crush glass, do not need to be regulated by solid waste permits. (2) With its emphasis on recycling, solid waste management has dramatically changed in recent years. The bill moves the state's regulatory program in the right direction in response. (3) Technically, the movement of agricultural wastes by farmers could make farmers solid waste handlers. Our regulatory program needs to be smarter than that. (4) The bill allows exemptions from permit requirements without diminishing the authority of the DOE over waste disposal. (5) If solid wastes can be beneficially used without risk to the public, we need to address its use in a new way. (6) Biosolids should not be studied under this bill. Agricultural demand already exceeds supply.

**Testimony Against:** (1) Compost facilities should not qualify for the exemption from permitting and the bill should not apply to King County. (2) Use of biosolids needs to be studied as a way of assisting some landfill operations generate gases for commercial use. (3) Solid waste management systems need to be coordinated under a county-wide solid waste plan; the permit process allows this coordination and protects human health and the environment. It is the county-wide solid waste management plan that gets close environmental review. This control and review should not be removed from local government. (4) This legislation was not recommended by the advisory committee.

**Testified:** John Paul Jones, Washington Refuse and Recycling Association; Jim Pendowski, Department of Ecology; Scott Hazelgrove, Association of Washington Business; and Craig Vogel, Boise Cascade (in favor). Bill Vogler, Washington State Association of Counties; Ed Thorpe, Coalition for Clean Water; and Jim Boldt, Rabamco; (commented on the bill). Rod Hanson, King County; and Bill Ziegler, Teamsters Local # 174 (opposed).