

SENATE BILL REPORT

E2SHB 1605

As Reported By Senate Committee On:
Water, Energy & Environment, March 31, 2005
Ways & Means, April 4, 2005

Title: An act relating to protecting children from area-wide soil contamination.

Brief Description: Protecting children from area-wide soil contamination.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Upthegrove, Dickerson, Schual-Berke, Cody, McDermott, Hunter, B. Sullivan, Simpson, Morrell, Murray, Chase, Roberts, Kenney and Santos).

Brief History: Passed House: 3/11/05, 95-0.

Committee Activity: Water, Energy & Environment: 3/30/05, 3/31/05 [DPA-WM, w/oRec].

Ways & Means: 4/5/05, 4/4/05 [DPA(WEE), DNP, w/oRec].

SENATE COMMITTEE ON WATER, ENERGY & ENVIRONMENT

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

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

Minority Report: That it be referred without recommendation.

Signed by Senator Morton, Ranking Minority Member.

Staff: Sam Thompson (786-7413)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended by Committee on Water, Energy & Environment.

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

Minority Report: Do not pass.

Signed by Senator Zarelli, Ranking Minority Member.

Minority Report: That it be referred without recommendation.

Signed by Senators Parlette, Pflug and Schoesler.

Staff: Brian Sims (786-7431)

Background: Area-wide soil contamination is low-to-moderate contamination dispersed over large areas ranging from several hundred acres to many square miles. In many areas of Washington, soil contains low-to-moderate levels of arsenic and lead contamination from

three sources: airborne emissions from metal smelters, use of lead arsenate pesticides, and combustion of leaded gasoline. Human exposure to high levels of these heavy metals can cause many health disorders.

In 2001, the legislature directed the Department of Ecology (DOE) to address area-wide soil contamination issues. In response, DOE chartered a task force to offer advice about a statewide response strategy. Among other proposals, in a 2003 report the task force advocated soil testing and protective measures for outdoor areas frequented by children, who are particularly sensitive to poisoning from heavy metals.

Summary of Amended Bill: Generally. A DOE-administered program is established to enhance existing state and local government efforts to reduce children's exposure to contaminated soils in Western Washington and specifically within the central Puget Sound smelter plume.

DOE Role. DOE will assist public and private K-12 schools and child care facilities (child day care centers and family day-care providers) in Western Washington to reduce potential exposure of children to area-wide soil contamination--i.e., low to moderate arsenic and lead contamination dispersed over a large area. In doing so, DOE will cooperate with the Department of Health (DOH), the Department of Social and Health Services (DSHS), the Office of the Superintendent of Public Instruction (OSPI), and local health districts.

DOE must:

- identify and evaluate schools and child care facilities within the central Puget Sound smelter plume to determine potential for children's exposure to area-wide soil contamination;
- if evaluations determine that children may be routinely exposed to area-wide soil contamination, conduct soil sampling tests on those properties by the end of 2009; and
- if testing confirms contamination, notify schools and child care facilities regarding test results and next steps for implementing DOE-developed best management practices.

DOE must develop best management practice guidelines for schools and day care facilities with area-wide soil contamination. The guidelines will recommend a range of remedial measures, depending upon area conditions.

DOE may provide technical and financial assistance to schools and child care facilities within the central Puget Sound smelter plume in conducting initial evaluations, testing soils, and implementing best management plans. DOE will establish a grant program and may provide grants assisting schools and child care facilities in implementing best management practices.

DOE must recognize facilities that successfully implement best management practices with a certification letter confirming that the facility has successfully implemented best management practices.

DOE will evaluate actions to reduce child exposure to contaminated soils and submit reports to the Governor and legislature by the end of 2006 and end of 2008.

School and Child Care Facility Role. Schools and child care facilities must work with DOE to provide site access for soil sampling. If a school or a child care facility with area-wide soil

contamination does not implement best management practices within six months of DOE notice of test results, the facility must notify parents or guardians in writing of the test results.

DOH and DSHS Role. DOH will assist DOE in implementing the program, including developing best management practices. DSHS will assist DOE by providing location and contact information regarding child care facilities. DOE may provide financial assistance to DSHS to implement the program.

Local Health Jurisdiction Role. DOE may enter into interagency agreements with local health jurisdictions to administer aspects of the program.

Limitations. The program does not apply to land devoted primarily to the commercial production of livestock or agricultural commodities and does not change ongoing actions or agency authority to address soil contamination under existing law.

Amended Bill Compared to Original Bill: Clarifies that the bill applies only within Western Washington, and does not apply to agricultural land--i.e., land devoted primarily to the commercial production of livestock or agricultural commodities. Limits DOE assistance in evaluating and testing soils to schools and child care centers within the central Puget Sound smelter plume, rather than all of Western Washington. Changes DOE soil testing deadline to the end of 2009, rather than the end of 2008. Provides for implementing "best management practices" rather than "property specific public health plans." Requires DOE to submit program evaluation reports to the Governor and legislature by the end of 2006 and the end of 2008. Provides that the bill is not intended to change ongoing DOE actions or the authority of DOE or other agencies to require actions addressing soil contamination under existing laws.

Appropriation: None.

Fiscal Note: Requested for Senate Water, Energy & Environment Committee striking amendment on April 1, 2005.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed. However, the bill is null and void unless funded in the budget.

Testimony For (Water, Energy & Environment): Problems caused by soil contamination must be addressed by fencing, resodding or other remedial measures. Lead causes brain damage, and children are particularly susceptible to lead poisoning; even low levels of lead are unacceptable.

This bill is supported by day care providers.

Testimony Against (Water, Energy & Environment): There is no proof that low-level exposure to lead or arsenic has negative health impacts. This bill creates possibly huge costs. It unfairly singles out a smelter plume and does not address other sources of arsenic and lead.

Who Testified: (Water, Energy & Environment) PRO: Representative Upthegrove; Senator Kohl-Welles; Ruth W. Shearer, PhD, Retired Toxicologist; Jim Pendowski, Department of Ecology; Lonnie Johns-Brown, The Collaborative; Stu Jacobson, Washington Parents for Safe Child Care.

CON: Karen Pickett, Asarco.

Testimony For (Ways & Means): None.

Testimony Against (Ways & Means): None.

Who Testified (Ways & Means): No one.