

1 **SSB 5787 - H COMM AMD NOT ADOPTED 4/18/03**

2 By Committee on Agriculture & Natural Resources

3 Strike everything after the enacting clause and insert the  
4 following:

5 "NEW SECTION. **Sec. 1.** A new section is added to chapter 90.48  
6 RCW to read as follows:

7 (1) In order to ensure that construction projects involving the  
8 use of fill material do not pose a threat to water quality, the  
9 department may require that the suitability of potential fill  
10 material be evaluated using a leaching test included in the soil  
11 clean-up rules adopted by the department under chapter 70.105D RCW  
12 in any water quality certification issued under section 401 of the  
13 federal clean water act and in any administrative order issued  
14 under this chapter, where such certification or administrative  
15 order authorizes the placement of fill material, some or all of  
16 which will be placed in waters of the state. Any such requirement  
17 imposed by the department in a water quality certification or  
18 administrative order issued prior to the effective date of this  
19 section is ratified and approved by the legislature as a valid and  
20 reliable method for determining concentrations of chemical  
21 constituents that can be present in fill material without posing an  
22 unacceptable risk of violating water quality standards, and shall  
23 be in effect as imposed by the department for all work not  
24 completed by June 1, 2003.

25 (2) If the department utilizes a leaching test identified in  
26 subsection (1) of this section for a construction project, neither  
27 the project proponent nor any person or entity working on the  
28 project proponent's behalf may import fill material that contains  
29 heavy metals in concentrations that exceed the standards specified  
30 in the soil cleanup rules adopted according to chapter 70.105D RCW.  
31 If these rules specify more than one cleanup standard for a heavy  
32 metal, the department shall determine which standard applies.

1 (3) Nothing in this section limits, in any way, the department's  
2 authority under this chapter.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 90.48  
4 RCW to read as follows:

5 The department shall identify the leaching tests utilized for  
6 evaluating the potential impacts to water quality in situations  
7 where fill material is imported. The tests may include those  
8 identified in the soil clean-up rules adopted by the department  
9 under chapter 70.105D RCW. Within existing resources, the  
10 department shall assess whether this list of leaching tests  
11 provides appropriate methods for analyzing water quality impacts  
12 for all types of projects and in all circumstances where fill  
13 material is imported. The department shall also identify any gaps  
14 in leaching test methodology. The department shall report both the  
15 leaching test list and the list of test methodology gaps to the  
16 appropriate committees of the legislature by December 31, 2003.

17 NEW SECTION. **Sec. 3.** This act is necessary for the immediate  
18 preservation of the public peace, health, or safety, or support of  
19 the state government and its existing public institutions, and  
20 takes effect immediately."

21 Correct the title.

**EFFECT:** (1) Replaces provisions specifically authorizing the use of the Synthetic Precipitation Leaching Procedure (SPLP) with provisions: (a) allowing the Department of Ecology (DOE) to require the use of a leaching test included in the Model Toxics Control Act (MTCA) soil cleanup rules; (b) prohibiting importation of fill material containing heavy metals in concentrations exceeding the MTCA soil cleanup standards when the test is used in connection with a construction project; (c) specifying that, with respect to these circumstances involving heavy metals, the DOE determines which MTCA standard to apply if more than one standard exists; and (d) requiring the DOE to identify and assess the effectiveness of leaching tests used for evaluating potential water quality impacts from fill importation. (2) Retains the legislative ratification and approval of any conditions imposed in a water quality certification issued before the effective date of these provisions for work not completed by June 1, 2003. (3) Adds an emergency clause.