

# HOUSE BILL REPORT

## HB 2981

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**As Reported by House Committee On:**  
Agriculture & Natural Resources

**Title:** An act relating to moving towards more uniform surface mine regulations.

**Brief Description:** Concerning the regulation of surface mines.

**Sponsors:** Representatives Williams, Blake and Simpson.

**Brief History:**

**Committee Activity:**

Agriculture & Natural Resources: 2/5/08 [DPS].

**Brief Summary of Substitute Bill**

- Creates a joint select committee of legislators to study options for moving toward a more uniform system of surface mining regulations that bases regulatory decisions on actual environmental harm and not on the status of the operation's ownership or the size of the operation.

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### HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Blake, Chair; Van De Wege, Vice Chair; Kretz, Ranking Minority Member; Warnick, Assistant Ranking Minority Member; Eickmeyer, Grant, Kristiansen, Lantz, Loomis, McCoy, Nelson, Newhouse and Orcutt.

**Staff:** Colleen Kerr (786-7168).

**Background:**

The Surface Mine Reclamation Act

The Surface Mine Reclamation Act is a reclamation law that requires a permit for each mine that: (1) results in more than three acres of mine-related disturbance, or (2) has a high-wall that is both higher than 30 feet and steeper than 45 degrees.

The Department of Natural Resources (DNR) is responsible for ensuring that reclamation follows completion of surface and underground mining. The DNR has exclusive authority to

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regulate mine reclamation and approve reclamation plans. Mine operations, which consist of all mine-related activities except reclamation, are specifically regulated by local governments or state and federal agencies exclusive of the DNR.

Local governments must formally approve mine sites and/or the subsequent use of the mine site prior to receiving a reclamation permit. This approval process generally makes local jurisdictions the lead agency according to State Environmental Policy Act (SEPA) rules.

A reclamation plan is required for each mine, for which periodic reviews and revisions are necessary. These plans specify the permit holder's methods for achieving the specified reclamation goals.

The state surface mine reclamation permit issued by the DNR to the permit holder applies to most of the surface mines in Washington. Some sites meeting the surface mining threshold are exempt. The list of exempt mines include those primarily for public works projects if the mines are owned or primarily operated by counties with 1993 populations of less than 20,000 people, and if each mine has less than seven acres of disturbed area.

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**Summary of Substitute Bill:**

A joint select committee of legislators is created to study options for moving toward a more uniform system of surface mining regulations that bases regulatory decisions on actual environmental harm and not on the status of the operation's ownership or the size of the operation.

**Substitute Bill Compared to Original Bill:**

The substitute bill strikes the underlying bill and creates a joint select committee of legislators to study options for moving toward a more uniform system of surface mining regulations that bases regulatory decisions on actual environmental harm and not on the status of the operation's ownership or the size of the operation.

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**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:**

(In support) Mine regulation is an essential government service. By allowing counties to own and operate mines and not requiring them to obtain a permit from the DNR and have a reclamation plan on file, the state is giving these publicly owned mines an unfair advantage over private competitors. Private competitors in this industry are more efficient and better

environmental neighbors because they are regulated. Therefore, with respect to maintaining the state's natural resources, this exemption needs to be corrected to provide equal application of the laws for a consistent result.

Privately owned pits must have permits from the DNR and the Department of Ecology as well as federal permits. This results in a significantly higher cost before the operation can reap a profit. Further, with current regulations, it is difficult to get a new pit permitted. The counties who are eligible for the exemption do not face the same restrictions. The result is that family owned businesses that have been in operation for generations are in jeopardy of being put out of business. This is not fair.

(Opposed) In 1993 there were 11 counties that met the definition in question: Wahkiakum, Garfield, Columbia, Ferry, Asotin, Adams, Lincoln, Skamania, Klickitat, Pend Orielle, and San Juan. These are the counties with the smallest populations, but also the most fiscally distressed counties. This bill will only add to that fiscal distress. The critical issue is that the mines and pits in question are for public benefit. In Eastern Washington, many roads are gravel. The counties are therefore not in the business of selling gravel, but in the business of road maintenance. That is why the counties have a protected use of this resource: for public works. Additionally, removing this exemption and this option for the counties would limit their ability to respond in emergency situations.

**Persons Testifying:** (In support) Representative Williams, prime sponsor; David Freels, Godbey Red-E-Mix; Bob Lloyd, Lloyd Logging Inc.; and Bob Tollefson, Tollefson Construction Inc.

(Opposed) Eric Johnson, Washington State Association of Counties.

**Persons Signed In To Testify But Not Testifying:** None.