

SENATE BILL REPORT

SB 6722

As Amended by House, March 5, 2008

Title: An act relating to the creation and use of the cleanup settlement account.

Brief Description: Creating the cleanup settlement account.

Sponsors: Senators Regala, Delvin, Schoesler, Pridemore and Shin; by request of Department of Ecology.

Brief History:

Committee Activity: Ways & Means: 2/04/08, 2/12/08 [DP].

Passed Senate: 2/19/08, 49-0.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Carrell, Hatfield, Hobbs, Keiser, Kohl-Welles, Oemig, Parlette, Rasmussen, Regala, Roach, Rockefeller, Schoesler and Tom.

Staff: Elise Greef (786-7708)

Background: The Model Toxics Control Act (MTCA) was approved by Washington state voters as an initiative in 1988 to provide a regulatory structure, standards, and funding source to clean up contaminated properties and to prevent the creation of future hazardous waste sites. The MTCA created a tax on hazardous substances, primarily petroleum-based products. The tax is distributed into two accounts: the State Toxics Control Account and the Local Toxics Control Account.

The State Toxics Control Account receives funds from: (1) the hazardous substance tax; (2) the costs of remedial actions recovered by the Department of Ecology; (3) penalties collected or recovered; and (4) any other money appropriated or transferred by the Legislature. The funds are used for hazardous-waste cleanup; hazardous and solid-waste planning, management, regulation, and enforcement; and financial assistance for local programs.

The MTCA requires potentially liable persons to assume responsibility for cleaning up contaminated sites. The Washington Department of Ecology oversees cleanup work performed by liable parties or conducts cleanups and recovers its costs for the work. In cases where a company does not have the financial means to pay the full cleanup costs, the Department of Ecology – working with the Attorney General's Office – can agree to a

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settlement in which the liable party contributes money for future cleanup work in exchange for settling its liability.

Summary of Bill: A new appropriated account, the Cleanup Settlement Account, is created in the State Treasury. The account will receive deposits from settlement agreements and court orders that direct payment to the state to resolve a company's liability or potential liability for polluting a specific site. The funds will be used to pay for state-conducted cleanup work at those sites, or to assess and address damage to natural resources caused by pollution at the sites.

The account will receive its proportionate share of interest earnings.

The Department of Ecology is directed to track money received, interest earned, and expenditures made for each site individually.

Appropriation: None.

Fiscal Note: Requested on February 1, 2008.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed; except section 3, relating to the State Treasurer, which takes effect July 1, 2008; and section 4 which reinstates prior law related to interest earnings to the State Treasury after a scheduled expiration and takes effect July 1, 2009.

Staff Summary of Public Testimony: PRO: It is important to ensure that settlement funds related to specific sites be ploughed back into those sites. As bankruptcies in the state increase, more of these situations will arise. In regard to the interest earnings: in the past, these funds have been placed into private/local accounts and retained their interest earnings. On the advice of the Office of Financial Management, that structure is not recommended for future payments. This is not a deviation from past practice in that these interest earnings never went to the General Fund-state.

Persons Testifying: PRO: Jim Pendowski, Department of Ecology; Doug Levy, City of Everett; Jim Hedrick, Port of Everett.

House Amendment(s): Updates the effective-date sections to take into account the passage of the amendment to Article VII of the State Constitution in the November 2007 general election. It also moves the order of the new account within the lists of existing accounts so it appears alphabetically.