

HOUSE BILL REPORT

ESHB 1695

As Passed Legislature

Title: An act relating to establishing a priority for the use, reuse, and recycling of construction aggregate and recycled concrete materials in Washington.

Brief Description: Establishing a priority for the use, reuse, and recycling of construction aggregate and recycled concrete materials in Washington.

Sponsors: House Committee on Environment (originally sponsored by Representatives Clibborn, Hayes, Ryu, Kochmar, Senn, Zeiger, Tarleton, Fey, Farrell, Harmsworth, Van Werven, Stanford, Fitzgibbon, Stokesbary, Wylie, Tharinger, Moscoso, Riccelli and Santos).

Brief History:

Committee Activity:

Environment: 2/9/15, 2/19/15 [DPS];
Transportation: 2/24/15, 2/26/15 [DPS(ENVI)].

Floor Activity:

Passed House: 3/11/15, 98-0.
Passed Senate: 4/13/15, 47-0.
Passed Legislature.

Brief Summary of Engrossed Substitute Bill

- Requires the Washington State Department of Transportation (WSDOT), together with local governmental entities and Washington-based construction industry associations, to develop criteria and objectives for the reuse and recycling of commonly defined coarse and fine aggregate cement and concrete mixtures.
- Requires all WSDOT transportation projects to use at least 25-percent construction aggregate and recycled concrete materials by 2016.
- Requires any local government with 100,000 residents or more to solicit bids from contractors that propose to use recycled content and give bidding preference to the contractor proposing to use the highest percentage of recycled material if it is at no additional cost.
- Requires any local government with jurisdiction over a public works transportation or infrastructure project to, by the year 2016, adopt standards as developed by the WSDOT for the use of recycled materials as shown in the

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WSDOT's standard specifications for road, bridge, and municipal construction.

- Requires local governments located in a county with less than 100,000 residents to review and determine their capacity for recycling, establish recycling strategies to reuse construction aggregate and recycled concrete materials for projects in their jurisdiction, and implement the strategies.

HOUSE COMMITTEE ON ENVIRONMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Fitzgibbon, Chair; Peterson, Vice Chair; Shea, Ranking Minority Member; Short, Assistant Ranking Minority Member; Farrell, Fey, Goodman, Harris, McBride, Pike and Taylor.

Staff: Jason Callahan (786-7117).

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill by Committee on Environment be substituted therefor and the substitute bill do pass. Signed by 24 members: Representatives Clibborn, Chair; Farrell, Vice Chair; Fey, Vice Chair; Moscoso, Vice Chair; Orcutt, Ranking Minority Member; Bergquist, Gregerson, Harmsworth, Hayes, Kochmar, McBride, Moeller, Morris, Ortiz-Self, Pike, Riccelli, Rodne, Sells, Shea, Takko, Tarleton, Wilson, Young and Zeiger.

Minority Report: Without recommendation. Signed by 1 member: Representative Hargrove, Assistant Ranking Minority Member.

Staff: Alyssa Ball (786-7140).

Background:

The Washington Department of Transportation (DOT) maintains standard specifications for road, bridge, and municipal construction. According to the DOT, the standard specifications are, with some limited exceptions, incorporated into the written agreement between the DOT and their contractors. These standard specifications include the maximum allowable percent, by weight, of recycled materials in road and bridge aggregate materials. The allowable percentages are based on the materials being recycled, such as hot mix asphalt, concrete rubble, and steel furnace slag, and the use of the material, such as crushed surfacing, gravel backfill, or ballast. Depending on the material and its use, the maximum allowable percentage of recycled material is either 0 percent, 20 percent, or 100 percent.

Summary of Engrossed Substitute Bill:

The DOT, together with cities, counties, and Washington-based construction industry associations (implementation partners) must develop and establish criteria and objectives for

the reuse and recycling of commonly defined coarse and fine aggregate cement and concrete mixtures (construction aggregate and recycled concrete materials).

Beginning in the year 2016, all Washington roadway, street, highway, and transportation infrastructure projects undertaken by the DOT must use at least 25-percent construction aggregate and recycled concrete materials each year cumulatively across all projects if adequate amounts of materials are available and are cost effective.

Also beginning in the year 2016, any local government with 100,000 residents or more is required to solicit bids from contractors that propose to use recycled construction content. Once solicited, the local governments must compare the lowest responsible bid proposing to use recycled materials with the lowest responsible bid not proposing to use recycled materials and award the contract to the lowest responsible bidder proposing to use the highest percentage of recycled material if it is at no additional cost. Local governments with less than 100,000 residents must review their capacity for recycling and reusing construction materials, establish strategies for meeting that capacity, and begin implementing those strategies, and any local government with less than 100,000 residents, or any local government with jurisdiction over a public works transportation or infrastructure project, regardless of size, must adopt standards as developed by the DOT for the use of recycled materials as shown in the DOT's standard specifications for road, bridge, and municipal construction.

The DOT and its implementation partners must report to the Legislature annually on the progress being made to reach the established recycling goals. The annual reports must be issued from the years 2017 until 2020.

Appropriation: None.

Fiscal Note: Available.

Effective Date: This bill take effect January 1, 2016.

Staff Summary of Public Testimony (Environment):

(In support) The state is in the midst of a number of projects that will result in an abundance of recyclable and reusable construction materials. It is most advantageous financially and environmentally to reuse these materials in new projects; however, different rules in one region of the state have discouraged the use of these materials statewide. The construction industry needs to know that the same rules apply in all of the counties.

Today, projects with extra concrete just throw the fully reusable materials into the trash. All efforts should be made to keep construction materials out of landfills. We are rapidly running out of room in our landfills and we need to get these materials back out and into projects. The moment is right to demonstrate that potentially competitive interests can work together to achieve multiple good outcomes.

The DOT has standards for reusing these materials and the bill allows local governments the flexibility they need to ensure how the recycling mandate will be met for their communities. This is a collaborative approach to ensure that all of the stakeholders are working together.

Goals have to be more than just aspirational or they will never be met. However, small communities do justify different standards and may not need a mandate regarding the percentage of recycled materials in their projects.

(With concerns) There could be an increase in cost for state construction projects due to having to bring materials into construction sites from further away. These materials should be used when it makes sense to use them, but not in every instance. The mandates will only work efficiently in larger markets.

(Opposed) None.

Staff Summary of Public Testimony (Transportation):

(In support) This bill was brought by the industry at a time when there were mixed messages being sent across the state—one district was told they could not use recycled concrete, while another district did not have a similar rule. The effect of this was that contractors didn't know if they could start their construction projects and use recycled concrete because they might have a ruling come down after the fact about the material's use and it would change what they were doing. This is an attempt to get consistency across the board for contractors. Additionally, there is a large quantity of material that will soon need to be recycled, such as the State Route 520 pontoons and it would be preferable to not have that material hauled off to a site where it can't be recycled and used.

The Washington Aggregate and Concrete Association has been working with cities, counties, and the Washington State Department of Transportation (WSDOT) to address concerns in the original bill. The substitute bill has revised and reduced the number of requirements, clearly positioned the existing WSDOT guide on how, when, and where to use recycled materials, and separates 27 out of 39 counties from any minimums required and gives them the ability to establish their own capabilities and strategies for recycling in their rural jurisdictions. The bill allows for a collaborative process across stakeholders to ensure long-term success. Recycled materials will cost less than virgin materials.

There are many large structures that are soon to come down, which would give many projects many opportunities to use recycled materials. If this policy is not implemented now, it may close the window to do this in the future. This bill sends a very clear message about a new way for the state to do business.

(With concerns) The Association of Washington Counties still has a few concerns about the bill. This is something new that hasn't been in place for a while, so inevitably there are going to be questions about how it is going to be implemented. If materials are tested and not found to be adequate or are not readily available, it may be difficult to meet the 25 percent goal. It would be good if the process was more vetted and thought through prior to implementation. The cities and counties would like to see the implementation date delayed

for its members so that they may learn from the experience the WSDOT has with implementing the bill.

The WSDOT supports the use of recycled materials on highway construction projects and have continued to expand the use of it within the standard specifications. While the WSDOT appreciates the new, lower goal, there will still be costs associated with meeting the goal, in particular the cost of hauling materials to remote locations. Tracking attainment will require extensive reporting and monitoring to ensure the goal is met. The WSDOT would request the ability to track actual usage of recycled material for one year prior to implementation of the bill.

(Opposed) None.

Persons Testifying (Environment): (In support) Representative Clibborn, prime sponsor; Representative Hayes; Bruce Chattin, Washington Concrete and Aggregates Association; Ed Owens, CalPortland Company; Scott Hazelgrove, Cadman; and Jeff Carpenter, Department of Transportation.

(With concerns) Gary Rowe, Washington State Association of Counties.

Persons Testifying (Transportation): (In support) Representative Clibborn, prime sponsor; Bruce Chattin, Washington Aggregate and Concrete Association; and Ed Owens, CalPortland Company.

(With concerns) Gary Rowe, Washington Association of Counties; and Kurt Williams, Washington State Department of Transportation.

Persons Signed In To Testify But Not Testifying (Environment): None.

Persons Signed In To Testify But Not Testifying (Transportation): None.