

SENATE BILL REPORT

SB 6570

As Reported by Senate Committee On:
Energy, Environment & Telecommunications, February 3, 2016

Title: An act relating to prioritizing the expenditure of funds associated with the model toxics control act for the cleanup of toxic pollution.

Brief Description: Prioritizing the expenditure of funds associated with the model toxics control act for the cleanup of toxic pollution.

Sponsors: Senator Ericksen.

Brief History:

Committee Activity: Energy, Environment & Telecommunications: 2/02/16; 2/03/16 [DPS-WM, DNP].

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

Majority Report: That Substitute Senate Bill No. 6570 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Ericksen, Chair; Sheldon, Vice Chair; Braun, Brown and Honeyford.

Minority Report: Do not pass.

Signed by Senators McCoy, Ranking Minority Member; Cleveland and Habib.

Staff: Jan Odano (786-7486)

Background: The state Model Toxics Control Act (MTCA) is carried out by the Department of Ecology (Ecology) to ensure that the sites at which hazardous substances are released are cleaned up. Ecology is responsible for investigating, conducting remedial actions, enforcing actions to protect human health, and providing technical and administrative assistance. Ecology must prioritize funding to clean up hazardous waste sites and prevent future hazardous waste sites. Hazardous waste sites are ranked by consideration of the amount and type of contamination, the risk that contamination will spread, and routes of exposure. Sites are considered a higher priority when the contamination threatens drinking water supplies, exists in high quantity or over a large area, is toxic to animals or fish, may affect a body of water, or affects public health.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

MTCA is funded by a 0.7 percent tax on the wholesale value of hazardous substances; cost recovery from remedial actions; mixed waste fees; and - to a lesser extent - fines, penalties, and other charges. The State Toxic Control Account (STCA) receives 56 percent of the revenue obtained from the hazardous substance tax (HST), and 44 percent is deposited into the Local Toxic Control Account (LTCA). Once \$140 million of the HST is distributed to STCA and LTCA, the remainder collected must be deposited into the Environmental Legacy Stewardship Account (ELSA).

STCA funds activities such as hazardous waste cleanup and solid waste programs; assisting potentially liable persons to pay for the costs of remedial action; stormwater pollution control projects; the oil and hazardous materials spill prevention and preparedness program; water and environmental health protection and monitoring programs; a public participation program; and air quality programs for reducing public exposure to toxic air pollution.

The use of LTCA funds are prioritized for:

- extended grant agreements;
- remedial actions;
- certain stormwater pollution source projects;
- hazardous waste plans and programs;
- solid waste plans and programs;
- petroleum-based plastic or expanded polystyrene foam debris clean-up activities in fresh or marine waters; and
- appropriations to STCA or ELSA when priorities for spending exceed available funds in those accounts.

ELSA funds have been designated for activities such as:

- grants or loans to local governments for performance and outcome-based projects, model remedies, demonstration projects, procedures, contracts, and project management and oversight that result in significant reductions in the time to complete compared to baseline averages;
- STCA and LTCA activities;
- grants or loans to fund design and construction of low-impact development retrofit projects and projects that reduce stormwater pollution from existing infrastructure; and
- cleanup and disposal of hazardous substances from abandoned or derelict vessels.

ELSA funds have also been used for shoreline update technical assistance and for local government shoreline master program update grants; solid and hazardous waste compliance at the Department of Corrections; activities at the Department of Fish and Wildlife concerning water quality monitoring, hatchery water quality regulatory compliance, and technical assistance to local governments on growth management and shoreline management; and forest practices regulation and aquatic land investigation and clean-up activities at the Department of Natural Resources.

Since October 2014, HST revenues have been below amounts forecasted primarily due to declining and volatile oil prices. According to Ecology, between the May 2015 revenue forecast and October 2015, the actual and projected HST revenue dropped by \$60 million.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Recommended Substitute): Changes are made to the 2015-2017 Operating Budget relating to funds in STCA, LTCA and ELSA.

- Funds allocated for Public Participation Grants are suspended for the 2015-2017 fiscal biennium.
- Funding is reduced for the Waste to Resources program and for grants for managing stormwater pollution, and shoreline master program.

Changes are made to the 2015-2017 Capital Budget by providing fifty percent of the appropriations for:

- Reducing toxic diesel emissions to \$500,000; and
- Reducing toxic woodstove emissions to \$1 million.

In addition, the following funding shifts are made:

- \$2.4 million of MTCA costs in the Water Quality Program to the Water Quality Permit Account; and
- \$700,000 of MTCA costs in the Air Quality program to the Air Pollution Control Account.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony on First Substitute: PRO: The prime goal of MTCA is to clean up contaminated sites. Many people consider this the best job creating fund because it creates jobs in the front end of clean up in construction and long term when areas are put back into beneficial use. As price of oil goes down, the amount going into MTCA account is going down accordingly. In 2013, there was fundamental restructure of MTCA accounts. We see reforms made working very well to allow us to keep with the main purpose of MTCA which is to clean up of contaminated sites in the state. The purpose of the bill is to set the priorities of what we want to accomplish. When the price of oil goes up we can capture those funds to do other projects and when it goes down we're going to use the flexibility to prioritize projects. The HST provides a robust revenue stream of 300 percent increase in the account since its inception. Since 1990 to 2015, the account has raised \$2.3 billion and about 25 percent has been spent on cleanup. A lot of MTCA dollars have been spent on non-MTCA purposes, with \$250 million diverted to general fund and millions to support agency budgets. There have been regular amendments to the budget to allow transfers of MTCA funds for other programs, these are exceptions to MTCA.

CON: This is a complex problem, solving will take extremely difficult choices and decisions. We need a balanced approach to support our partners, protect environment and human health, progress made on vital clean up projects and to keep our economy strong. Bridging the gap, and bringing solutions to the table shows that we have a joint responsibility, protect human health and the environment and support economic

development. With prevention and cleanup with this work impacts of these proposed cuts would go beyond Ecology, and impact cities, counties and ports that rely on this funding. The funding is critical shoreline management plans updates. Stormwater funding would risk addressing recontamination from stormwater. We won't be able to achieve largest amount of savings solely through vacancies but through cuts in our core programs. We support the concept of taking a close look at MTCA funding. The fact is there has huge drop in revenue and we need to make some prioritization decisions. We don't agree with every cut made but welcome the conversation. We have 2 major priorities within the big picture and this account - stormwater and cleanups. One takes huge reduction and the other is funded. Major general fund pressures which have caused shifts of core environmental programs to MTCA. Now with the reduction in revenue and exacerbated the budgetary issues. We are looking for a stable approach and long term solution to do this important work. We also have questions on the operating cuts of the budget. Addressing stormwater is largest unfunded mandate that cities have and we are dependent on the funding from MTCA. There needs to be targeted cuts. We need to look at general fund to support some of the programs that were traditionally funded by the general fund. My organization has relied on public participation grants for many years. This helps inform people and allows needed input from the local community and also helps EPA. The community input helps responsible parties to determine impacts. We are only one of 66 groups that would be affected by cuts to public participation grants. There are some wonderful programs that are engaging and informing people about impacts to them and improving their quality of life.

OTHER: Last year we were surprised when remedial action grants were given the lowest priority in the capital budget. We are anxious about operating cuts in ecology's budget and we don't know what it means. We would like some clarity and then we can make better comments. Cuts to shoreline grants will slow down our work as will impacts to coastal zone management would also be problematic.

Persons Testifying on First Substitute: PRO: Sen. Ericksen, Prime Sponsor, Greg Hanon, Western States Petroleum Association.

CON: Maia Bellon, Washington State Department of Ecology / Director; James Rasmussen, Duwamish River Cleanup Coalition; Darcy Nonemacher, Washington Environmental Council. CON: Laura Berg, Wa State Assoc of Counties; Carl Schroeder, Association of Washington; Jeff Parsons, Puget Sound Partnership.

OTHER: Gerry O'Keefe, Ports Association.

Persons Signed In To Testify But Not Testifying on First Substitute: No one.