

HOUSE BILL REPORT

E2SHB 1114

As Amended by the Senate

Title: An act relating to reducing the wasting of food in order to fight hunger and reduce environmental impacts.

Brief Description: Reducing the wasting of food in order to fight hunger and reduce environmental impacts.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Doglio, Slatter, Fey, Peterson, Ryu, Fitzgibbon, Tharinger, Jinkins, Macri and Walen).

Brief History:

Committee Activity:

Environment & Energy: 1/17/19, 1/24/19 [DPS];

Appropriations: 2/4/19, 2/21/19 [DP2S(w/o sub ENVI)].

Floor Activity:

Passed House: 3/9/19, 96-0.

Senate Amended.

Passed Senate: 4/13/19, 45-0.

Brief Summary of Engrossed Second Substitute Bill

- Establishes a goal of reducing food waste in the state by 50 percent by 2030, relative to 2015 levels.
- Directs the Department of Ecology to consult with the departments of Health and Agriculture to develop a wasted food reduction and food waste diversion plan by 2020 to achieve the 2030 food waste reduction goal.
- Authorizes wasted food reduction and food waste diversion to be among the state and local activities funded through the Waste Reduction, Recycling, and Litter Control Account.
- Requires the Department of Commerce to contract for an independent evaluation of the state's food waste and wasted food management system.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

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.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Fitzgibbon, Chair; Lekanoff, Vice Chair; Dye, Assistant Ranking Minority Member; Boehnke, DeBolt, Doglio, Fey, Mead, Peterson and Shewmake.

Minority Report: Do not pass. Signed by 1 member: Representative Shea, Ranking Minority Member.

Staff: Jacob Lipson (786-7196).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Environment & Energy. Signed by 19 members: Representatives Ormsby, Chair; Bergquist, 2nd Vice Chair; Robinson, 1st Vice Chair; Cody, Dolan, Fitzgibbon, Hansen, Hudgins, Jinkins, Macri, Pettigrew, Pollet, Ryu, Senn, Stanford, Sullivan, Sutherland, Tarleton and Tharinger.

Minority Report: Do not pass. Signed by 12 members: Representatives Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier, Chandler, Dye, Hoff, Kraft, Mosbrucker, Schmick, Steele and Ybarra.

Staff: Dan Jones (786-7118).

Background:

Solid Waste Management.

Under the state's solid waste management laws, local governments are the primary government entity responsible for implementing state solid waste management requirements. The Department of Ecology (ECY) also has certain roles in overseeing the administration of solid waste management laws. The ECY is responsible for working cooperatively with local governments as they develop their local solid waste management plans. The ECY also evaluates, analyzes, and monitors the state's solid waste stream, and develops a statewide solid waste plan that, in part, addresses organic material wastes.

County and city solid waste management plans are required to contain certain elements, including a waste reduction and recycling element. This element must include waste reduction strategies, recycling strategies, and source separation strategies, including yard waste collection.

Donors of food to nonprofit organizations that distribute food to needy individuals are generally protected from civil or criminal liability under state law. Similarly, persons who allow the collection or harvest of food for distribution to needy individuals are generally protected from civil or criminal liability.

Waste Reduction, Recycling, and Litter Control.

The Waste Reduction, Recycling, and Litter Control Act (Act), dating to 1971, prohibits littering and establishes statewide programs to prevent and clean up litter, reduce waste, and increase recycling. These programs are funded by the 0.015 percent litter tax on manufacturers', wholesalers', and retailers' gross proceeds on 13 categories of consumer products.

The programs funded by the litter tax under the Act include litter collection efforts by state agencies including the ECY, and state assistance of local government waste reduction, composting, and recycling programs. Fifty percent of money in the Waste Reduction, Recycling, and Litter Control Account (Account) created to carry out the Act is directed towards state litter collection efforts, 30 percent goes to the ECY to carry out its waste reduction, recycling, litter control, and composting coordination, promotion, and technical assistance activities, and 20 percent is allocated to the ECY to fund local government waste reduction, recycling, litter control, and composting activities.

Model Toxics Control Act Accounts.

The Hazardous Substances Tax (HST) is imposed on the first possession in the state of petroleum products, pesticides, and certain chemicals. These substances are taxed at the rate of 0.70 percent of the wholesale value. Revenue from the HST is deposited into:

- the State Toxics Control Account, which is used for a variety of hazardous waste and pollution prevention, management, and remediation activities and other environmental and natural resource programs carried out by the ECY and other state agencies;
- the Local Toxics Control Account, which is used for specified types of grant and loan programs to local governments, including for solid waste plans and programs; and
- the Environmental Legacy Stewardship Account, which is used for other specified state and local natural resource and environmental programs.

One percent of all HST funds are allocated for public participation grants to nonprofit public interest organizations and persons potentially affected by hazardous substance releases, with the goal of involving the public in the cleanup of contamination and the prevention of pollution.

Other State Programs.

The Washington State Board of Health (Board) establishes, by rule, minimum standards for the prevention of food-borne illness. The Board's rules are based on the 2001 Food Code, which is a model code adopted by the United States Food and Drug Administration. Local jurisdictions may adopt more stringent standards than the ones adopted by the Board.

The Washington State Department of Agriculture (WSDA) Food Safety Program helps regulate the safety of Washington's food supply by inspecting food processing and storage facilities and their practices, managing several food processing licenses, providing technical assistance, and investigating consumer complaints and food-related emergencies. The WSDA also administers food assistance programs that support food banks, food pantries, meal programs, and tribes by providing food to low-income families.

Summary of Engrossed Second Substitute Bill:

Wasted Food and Food Waste Goal.

A goal is established for Washington to reduce the annual generation of food waste by 50 percent by 2030. A subset of the goal is to include a prevention goal related to edible food waste. Food waste is defined as waste that results from the storage, preparation, cooking, handling, selling, or serving of food for human consumption, while wasted food is defined as the edible portion of food waste.

The state food waste reduction goal is to be measured against 2015 food waste levels, which the Department of Ecology (ECY) may estimate using any combination of solid waste data reported to the ECY and data from voluntary surveys.

Wasted Food and Food Waste Diversion Plan.

In order to achieve the 2030 food waste reduction goal, the ECY must consult with the Department of Agriculture (WSDA) and the Department of Health (DOH) to adopt a wasted food reduction and food waste diversion plan (Plan).

The Plan must include, in descending order of priority, strategies to:

- reduce wasted edible food;
- match and support the capacity for otherwise wasted edible food with food banks and other distributors to those who need it; and
- support other productive uses, such as animal feed, energy production, commercial uses, and compost.

The Plan must be designed to recommend a regulatory environment that optimizes the rescue of edible food and a stable, predictable funding environment that allows for capacity expansion and new technologies. The Plan must also be designed to satisfy other specified outcomes, and must include suggested best practices that local governments have the option of incorporating into their solid waste management plans.

Stakeholders and the public must be consulted throughout the development of the Plan, and the ECY may designate a stakeholder advisory panel. If the ECY designates a stakeholder advisory panel, the panel must include representatives of local solid waste and health departments, food businesses or associations, Kindergarten through Twelfth grade public education, and food banks and food and waste-focused nonprofit organizations. Representatives of each caucus in the House of Representatives and the Senate must also be invited to participate in any stakeholder advisory panel, at the designation of the Speaker of the House of Representatives and the President of the Senate. Alongside the Plan, the ECY may recommend changes to state law that would help achieve the 2030 goals, and must explain any such recommendations in a report to the Legislature due on December 1, 2020. Prior to implementing the Plan, the ECY and other state agencies, as appropriate, must submit agency request legislation for any activities, policies, or programs in the plan that would impose new obligations on state agencies, local governments, or private entities, along with estimated cost impacts. The ECY, in submitting the Plan, must identify the sources of information that it relied upon, including peer-reviewed science.

To support the development of the Plan, the Department of Commerce must contract for an independent evaluation of the state's food waste and wasted food management systems.

Wasted Food and Food Waste Programs and Funding.

Programs that collect food waste, in addition to yard waste, are identified as source separation strategies that may be implemented by cities and counties in their solid waste collection plans.

Among the waste reduction strategies that a city or county may include in their local solid waste plan are the food waste and wasted food reduction strategies from the Plan.

Wasted food reduction and food waste diversion are among the local government programs eligible to be funded from the Waste Reduction, Recycling, and Litter Control Account (Account) used to carry out the Waste Reduction, Recycling, and Litter Control Act's purposes. Wasted food reduction and food waste diversion are also added to the ECY's waste reduction, recycling, and litter control program responsibilities funded by the Account.

Wasted food reduction and food waste diversion programs are eligible uses of grant and loan funding provided to local government solid waste plans and programs from the Local Toxics Control Account, and of Model Toxics Control Act public participation grants.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendments make the following changes to Engrossed Substitute House Bill 1114:

- eliminates members of the House of Representatives and the Senate from the stakeholder advisory panel that the Department of Ecology is authorized to create to assist with the development of the wasted food reduction and food waste diversion plan;
- specifies that the laws that the Departments of Ecology, Health, and Agriculture must consider recommending changes to include laws related to food quality, labeling, and inspection requirements and laws relating to the donation of food waste or wasted food for animals; and
- specifies that the wasted food reduction and food waste diversion plan must be designed to facilitate the safe donation of food, rather than to facilitate the donation of prepared food and to eliminate legal barriers to food donations.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony (Environment & Energy):

(In support) The types of food that are most at risk of being wasted are the types of food most needed by food bank and food assistance program beneficiaries: protein, produce, and dairy. In addition to helping ensure high-quality food is available to those who need it, the bill will help reduce the environmental and climate change impacts associated with food waste. The bill will support composting, and will hopefully lead to the creation of more commercial

composting infrastructure in the state. Avoiding food waste is difficult without tools and equipment, such as refrigerated vehicles. Many grocery stores and restaurants have strong relationships with food banks across the state, and have been working with the Department of Ecology to learn how to be a more aggressive partner at reducing food waste. Grocers want to sell everything they can, donate anything edible that goes unsold, and compost any inedible food waste. Schools have also begun to train students and teachers how to reduce food waste. Stakeholders will help identify regulations, such as food safety codes, and logistical constraints that lead to avoidable food waste. The 50 percent food waste reduction goal adopted in this bill is consistent with goals set regionally, nationally, and internationally.

(Opposed) None.

(Other) Counties appreciate that this bill does not impose a mandate on local governments. However, litter tax funds are already stretched thin, and making food waste reduction projects eligible for funding alongside existing programs will further dilute litter tax funds.

Staff Summary of Public Testimony (Appropriations):

(In support) The bill would increase awareness and incentives for food donations. The bill would also provide more resources and technical assistance to charitable hunger relief organizations. Bringing stakeholders together would result in a better framework for food waste issues and capitalize on the resources of state government. The bill would help provide better food to food banks and build on current best practices.

(Opposed) None.

(Other) The Department of Ecology's costs for this bill come out of the Waste Reduction, Recycling, and Litter Control Account (WRRLCA). The WRRLCA is funded by the litter tax, which has been consistently diverted to other purposes in recent years, and there is no guarantee that funding will be restored. Other fund sources should be considered. Grocers are already active in preventing food waste.

Persons Testifying (Environment & Energy): (In support) Representative Doglio, prime sponsor; Zach Stratton, Quality Food Centers; Robert Coit, Thurston County Food Bank; Jan Gee, Washington Food Industry Association; Laurie Davies, Department of Ecology; Aaron Czyzewski, Food Lifeline; Heather Trim, Zero Waste Washington; Joanna Grist, PCC Community Markets and Washington Green Schools; and Samantha Louderback, Washington Hospitality Association.

(Other) Paul Jewell, Washington State Association of Counties.

Persons Testifying (Appropriations): (In support) Aaron Czyzewski, Food Lifeline; and Robert Coit, Thurston County Food Bank.

(Other) Carolyn Logue, Washington Food Industry.

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

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