

HOUSE BILL REPORT

HB 1154

As Reported by House Committee On:

Environment & Energy
Appropriations

Title: An act relating to ensuring environmental and public health protection from solid waste handling facility operations.

Brief Description: Ensuring environmental and public health protection from solid waste handling facility operations.

Sponsors: Representatives Duerr, Doglio, Ramel, Berry, Ryu, Callan, Pollet, Berg, Davis, Kloba and Hunt.

Brief History:

Committee Activity:

Environment & Energy: 1/13/25, 1/27/25 [DPS];
Appropriations: 2/13/25, 2/20/25 [DP2S(w/o sub ENVI)].

Brief Summary of Second Substitute Bill

- Requires the Department of Ecology (Ecology) to approve all permits for landfilling prior to issuance or renewal by the jurisdictional health department (JHD).
- Authorizes Ecology to suspend a permit and impose civil penalties for a solid waste handling facility that is operating in violation of any solid waste management requirements.
- Requires each JHD to provide Ecology with a list of violations of the requirements for solid waste handling facilities for each facility.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass.

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

Signed by 11 members: Representatives Doglio, Chair; Hunt, Vice Chair; Berry, Duerr, Fey, Kloba, Mena, Ramel, Stearns, Street and Wylie.

Minority Report: Without recommendation. Signed by 9 members: Representatives Dye, Ranking Minority Member; Klicker, Assistant Ranking Member; Abbarno, Abell, Barnard, Ley, Mendoza, Stuebe and Ybarra.

Staff: Matt Sterling (786-7289).

Background:

Solid Waste Handling Facility 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 (Ecology) also has certain roles in overseeing the administration of solid waste management laws. Ecology is responsible for working cooperatively with local governments as they develop their local solid waste management plans and in developing the comprehensive solid waste management plan.

Local jurisdictional health departments (JHDs) are responsible for issuing permits to solid waste facilities. Solid waste handling facilities are facilities that manage the storage, collection, transportation, treatment, utilization, processing, and final disposal of solid wastes. This includes the recovery and recycling of materials from solid wastes, the recovery of energy resources from solid wastes, or the conversion of the energy in solid wastes. These facilities include landfills which are disposal facilities or part of facilities at which solid waste is placed and is not a land treatment.

In issuing permits, the JHD must determine if a solid waste facility meets local health and zoning requirements, the local solid waste management plan, and all applicable state and federal solid waste laws and regulations. These permits must be renewed at least every five years. A JHD may hold a public hearing prior to making a permit decision and must approve or disapprove a permit renewal within 45 days of conducting its review.

Permits and Enforcement.

Applications for permits to operate a new or modified solid waste handling facility are submitted to the JHD. The application is on forms prescribed by Ecology and contains:

- a description of the proposed facilities and operations at the site;
- plans for any new or modified facilities; and
- other information the JHD needs to determine if the facilities will comply with all applicable laws and regulations and conforms with all zoning requirements, and the comprehensive solid waste management plan.

The JHD issues the permit once it determines the application meets all applicable requirements.

Upon receiving the application, the JHD provides a copy of the application to Ecology. Within 30 days of when the JHD issues a permit, Ecology reviews the application to ensure the facility conforms with all applicable laws and regulations and the comprehensive solid waste management plan. Ecology may appeal the issuance of a permit by the JHD to the Pollution Control Hearings Board (PCHB) for noncompliance. The JHD may suspend any permit issued for a solid waste disposal site, if the JHD determines that the site or facilities on the site are being operated in violation of any applicable solid waste management laws or regulations or any local laws or regulations.

Pollution Control Hearings Board.

The PCHB is an appeals board with jurisdiction to hear appeals of certain decisions, orders, and penalties issued by Ecology and several other state agencies. Parties aggrieved by a PCHB decision may obtain subsequent judicial review. Penalties appealable to the PCHB must generally be imposed following standard general protocols, including that the penalty must be accompanied by a notice in writing describing the violation, and specifying when the penalty must be appealed or else becomes due and payable. With some exceptions, penalties that are appealable to the PCHB are credited to the State General Fund.

Summary of Substitute Bill:

Permits and Enforcement.

Ecology must review and approve every permit or renewal of a permit for landfilling prior to issuance or renewal by the JHD. Ecology may require a JHD to amend a proposed landfill permit to ensure conformance with applicable laws and regulations. After August 1, 2027, any permits for landfilling must be approved by Ecology to be valid.

Both the JHD and Ecology may at any time suspend a permit for a solid waste disposal site if either determines that the site or the facility are being operated in violation of any applicable solid waste management laws or regulations. An applicant or permittee must allow the JHD and Ecology to conduct inspections and collect samples. Upon receipt of an order by the JHD or Ecology, a solid waste handling facility owner or operator must provide information necessary to determine compliance with the requirements for solid waste handling facilities. Additionally, both the JHD and Ecology may:

- impose a civil penalty of up to \$5,000 per day, and up to \$10,000 per day after 14 days, of operation of a solid waste handling facility in violation of the requirements of local or state solid waste management requirements or the permit issued; and
- issue an order requiring compliance by a solid waste handling facility.

A JHD or permit applicant may appeal Ecology's denial or amendment of a landfill permit to the PCHB.

A JHD may send a written notice to Ecology that it is deferring to Ecology's enforcement

authority. Ecology may exercise enforcement authority when a JHD has not deferred enforcement if Ecology determines that the JHD's enforcement response has failed to adequately address violations. If Ecology takes action to impose civil penalties or require compliance, Ecology must notify the JHD of the start and any end date of Ecology's enforcement activities and the geographical boundaries of the solid waste handling facilities at which the enforcement activities are planned.

Penalties imposed by a JHD must be paid to the local treasury in an account used for the expenses incurred by the JHD. Penalties imposed by Ecology must be deposited in the Model Toxics Control Operating Account. Any person who is issued an order or incurs a penalty from a JHD may appeal the penalty to the local health officer. Any person who is issued an order or incurs a penalty from Ecology may appeal such order or penalty to the PCHB.

Beginning January 1, 2026, and every five years thereafter, each JHD must provide a list to Ecology of any existing violations of the requirements for solid waste handling facilities for each facility currently operating in the jurisdiction. The list must include a description of any enforcement actions taken against the solid waste handling facility and whether the violation has been resolved.

Substitute Bill Compared to Original Bill:

The substitute bill makes the following changes to the original bill:

- requires that permits for landfilling must be approved by Ecology after August 1, 2027, to be valid, rather than after August 1, 2025;
- provides that the authority for a JHD and Ecology to issue civil penalties is restricted to \$5,000, rather than \$10,000, per day for the first 14 days of operation. If the issue is not resolved after 14 days, the penalty may increase to up to \$10,000 per day;
- requires civil penalties levied by:
 - a JHD to be deposited in the treasury and to the account from which the JHD's expenses are paid; and
 - Ecology to be deposited in the Model Toxics Control Operating account;
- requires a JHD to attempt to reach compliance with the solid waste handling facility through education and outreach before issuing a civil penalty;
- provides that a JHD may send a written notice to Ecology that it is deferring to Ecology's enforcement authority;
- authorizes Ecology to exercise enforcement authority when a JHD has not deferred enforcement to Ecology, if Ecology determines that the JHD's enforcement response has failed to adequately address violations;
- provides that a civil penalty imposed by a JHD may be appealed to the local health officer and a civil penalty imposed by Ecology may be appealed to the PCHB;
- requires a JHD to report a list of any current violations by solid waste facilities operating in the jurisdiction to Ecology rather than a list of both current and historical violations; and

- makes conforming amendments to give the PCHB authority to hear an appeal of a civil penalty issued by Ecology.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

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

Staff Summary of Public Testimony:

(In Support) There are quite a few landfills out of compliance and a couple that have been on fire in Yakima for over a year. A large part of the issue is due to a lack of enforcement and the inability to suspend permits. This bill is an attempt to clarify the permitting process and allow the Department of Ecology (Ecology) to help in the permitting process. The bill also gives Ecology the authority to impose fines for noncompliance. There have been people working with regulators for five years to get the Yakima landfill in compliance. The facility in Yakima never obtained the required air emissions permit from its local jurisdictional health department (JHD). The facility also operated out of compliance for ground water monitoring for years, but took years to take action to come into compliance. If there had been more oversight by Ecology during the initial permitting process and the ability to impose appropriate civil penalties for noncompliance, the situation would be better. If regulators had been able to impose fines, it would not have taken three years to clean up the litter, stop the odors, and put in groundwater monitoring wells. Landfills that are following regulations will not have any penalties. Good actors will not have a problem, just those that are not following requirements. This bill would provide consistency across the state and provide teeth for enforcement. Creating easily accessible reports of these violations would be helpful so that all residents can get a better understanding of the situation.

(Opposed) None.

(Other) Although this bill has a fiscal impact and is not considered in the Governor's budget, this bill would provide a valuable tool to the JHDs which work on the front line of landfill and solid waste facility regulation. Under this bill, Ecology could provide regulatory support to JHDs as they enforce the facility compliance with standards and permit conditions for construction, operation, maintenance and monitoring. This will help protect the public environment from harmful effects and solid waste handling facilities operating out of compliance with their permits and solid waste rules. There are definitely gaps in enforcement and there is broad support for strengthening landfill oversight. Local JHDs already work closely with Ecology and it is a positive change that this bill formalizes and cements that relationship and expectation. However, when two agencies have the

authority to issue penalties, it's very important to have clear coordination and communication, so the process for how both entities can impose fines should be made more clear. It would be better to keep the current local review process and not clog the Pollution Control Hearings Board with low level appeals, so section 2(b) should be removed from the bill. The goal is to make sure that we are using the data that is being collected and not just gathering data for the sake of it, so tightening up the language around historical data would be helpful. As a permit holder, it is helpful to just have one permitting agency to deal with. Many permit holders have a good working relationship with the local JHDs and often work together outside of regular meetings and inspections to work out any issues that may arise. The ability for Ecology to issue large fines is concerning and takes away the jurisdiction of the local JHD.

Persons Testifying: (In support) Representative Davina Duerr, prime sponsor; Nancy Lust, Friends of Rocky Top / CascadiaNow.org; Heather Trim, Zero Waste Washington; Scott Cave, Friends of Rocky Top & Carole DeGrave; and Ann Murphy, League of Women Voters of Washington.

(Other) Peter Lyon, Washington Department of Ecology, Solid Waste Management Program; Jaime Bodden, WSALPHO; Nick Streuli, WRRRA; and Troy Lautenbach, Lautenbach Recycling .

Persons Signed In To Testify But Not Testifying: None.

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 21 members: Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg, Bergquist, Callan, Corry, Cortes, Doglio, Fitzgibbon, Leavitt, Lekanoff, Manjarrez, Peterson, Pollet, Ryu, Springer, Stonier, Street, Thai and Tharinger.

Minority Report: Do not pass. Signed by 8 members: Representatives Couture, Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett, Caldier, Dye, Keaton and Rude.

Minority Report: Without recommendation. Signed by 2 members: Representatives Connors, Assistant Ranking Minority Member; Marshall.

Staff: Dan Jones (786-7118).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Environment & Energy:

The second substitute bill:

- clarifies that the Pollution Control Hearings Board has the authority to hear appeals of the Department of Ecology (Ecology) orders for compliance with solid waste handling facility permits, in addition to penalties; and
- makes the bill null and void if specific funding is not provided in the operating budget by June 30, 2025.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) A bill like this would have prevented issues like those at the Caton Landfill, which has been operating without a permit and has been accepting excessive amounts of waste and dumping tires. There have also been ongoing underground fires. The bill would give more authority to the Ecology and local health jurisdictions to prevent problems. It helps to have two sets of eyes looking at landfill permits. A couple of privately-owned facilities in Yakima didn't have proper drainage or collection systems, but were taking in a lot of revenue due to their low costs. Lack of regulation has led to air quality and PFAS contamination issues. The bill will not impact landfills or solid waste operators that do things correctly. More oversight from the Ecology is needed.

(Opposed) There are issues in the bill with overlapping authority between the Ecology and local health jurisdictions. Currently, county landfills are often overseen by county jurisdictional health district inspectors, which is like the fox guarding the henhouse. More even-handed regulation should be provided by an independent group.

(Other) The bill gives local health jurisdictions a stronger enforcement pathway for violations that occur, and provides a financial incentive for landfills with violations to come back into compliance. There is overlapping enforcement authority between the Ecology and local health jurisdictions, which could be clearer. Data gathering related to the bill could be improved. Increasing regulatory complications for recycling facilities will undermine the state's efforts to promote recycling.

Persons Testifying: (In support) Wendy Wickersham; Nancy Lust, Friends of Rocky Top; Scott Cave, Friends of Rocky Top; and Heather Trim, Zero Waste Washington.

(Opposed) Kris Strutner, Caton Landfill and Recycling LLC.

(Other) Jaime Bodden, Washington State Association of Local Public Health Officials; Travis Dutton, Washington Association of County Solid Waste Managers; and Carolyn

Moulton, Lautenbach Recycling.

Persons Signed In To Testify But Not Testifying: None.