

# HOUSE BILL REPORT

## SB 6722

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### As Passed House - Amended:

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

### Brief History:

#### Committee Activity:

Appropriations: 2/26/08, 2/27/08 [DPA].

#### Floor Activity:

Passed House - Amended: 3/5/08, 96-0.

### Brief Summary of Bill (As Amended by House)

- Creates the Cleanup Settlement Account for funds to be spent to conduct remedial actions at a specific facility and to assess and address injury to natural resources caused by a hazardous substance release.

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** Do pass as amended. Signed by 33 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Anderson, Chandler, Cody, Conway, Darneille, Ericks, Fromhold, Grant, Green, Haigh, Hinkle, Hunt, Hunter, Kagi, Kenney, Kessler, Kretz, Linville, McIntire, Morrell, Pettigrew, Priest, Ross, Schmick, Schual-Berke, Seaquist, Sullivan and Walsh.

**Staff:** Alicia Dunkin (786-7178).

### Background:

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*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.*

The Model Toxics Control Act (MTCA) was approved by Washington 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 settlement in which the liable party contributes money for future cleanup work in exchange for settling its liability.

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**Summary of Amended Bill:**

A new appropriated account, the Cleanup Settlement Account (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.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Amended Bill:** The bill takes effect 90 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:**

(In support) This new account will be used for specific cases where clean up and cost recovery are carried out under court order. We asked the Legislature to create a separate account to keep funding in an account that can be tracked and keep its own interest from court ordered responsible parties and bankruptcies, small parties that want to settle, and parties in specific geographic locations. The Burlington Northern Skykomish clean up addressed environmental impacts that are larger than what the railroad can handle and bankruptcies settlements are not sufficient to cover the entire clean-up cost. Now we are settling with ASARCO and mine sites across the state. ASARCO once had a smelter that left toxic materials in Everett and there are still homes remaining to be cleaned up. We are dedicated to cleaning up those homes and want the settlement money to go back to the areas where the funds are needed. The clean up costs in the future is in the hundreds of millions, which will not be covered by the settlement amount of bankruptcies, but through this new account the funds received would keep their own interest and be used for the same site. For large bankruptcies and insurance settlements it would help if everyone knows that the funds will go to the same site for which the settlement was made and not lost in the State Toxics Control Account and mixed with other funds. Keeping the interest earnings is not a departure from what is already being done in certain cases where the court order requires the funds to go into private settlement accounts and keep their own interest.

(Opposed) None.

**Persons Testifying:** Doug Levy, City of Everett; Jim Hedrick, Port of Everett; Eric Johnson, Washington Public Ports Association; and Jim Pendowski, Department of Ecology.

**Persons Signed In To Testify But Not Testifying:** None.