
OLR Bill Analysis

sHB 5573

AN ACT CONCERNING BROWNFIELD REMEDIATION AND DEVELOPMENT.

SUMMARY:

This bill gives property owners investigating and remediating contaminated property more options for complying with the Department of Energy and Environmental Protection's (DEEP) requirements for completing such tasks. It allows those participating in DEEP's voluntary cleanup programs to submit interim verifications, signifying that the site was remediated according to DEEP standards. It also allows participants to (1) submit interim or final verifications for a portion of the site instead of waiting until the entire site is remediated and (2) use the results to show that the site complies with the Transfer Act.

Under that act, the parties about to convey or transfer a potentially contaminated site must first notify DEEP about its environmental status and indicate whether it was investigated and remediated. When doing so, the bill allows them to investigate and remediate a portion of the site and submit the required forms documenting its environmental status.

Lastly, the bill exempts more property from the Transfer Act. It exempts sites where hazardous building materials were removed or abated, not just those where remediation activities generated hazardous waste, as under current law. The bill also exempts from the act sites municipalities take by eminent domain under any statute, not just those authorizing takings for redevelopment, and further exempts these sites from the act when a municipality conveys the site to another party, as current law allows for sites taken under the redevelopment statutes.

EFFECTIVE DATE: October 1, 2014

INTERIM AND PARTIAL SITE VERIFICATIONS

Voluntary Remediation Program

The bill gives property owners more latitude for remediating sites under DEEP's Voluntary Remediation Program, which allows property owners to have a licensed environmental professional (LEP) investigate and remediate a site before they decide to convey or transfer it. Under current law, property owners must completely investigate and remediate the site before the LEP can verify that they did so according to DEEP standards.

The bill allows the LEP to make a verification before the site is completely remediated by submitting an "interim verification," which signifies that the site was investigated and remediated according to DEEP standards except for contaminated groundwater undergoing long-term remediation and monitoring. It also allows the LEP to investigate and remediate part of a site and submit a separate verification for each part.

The bill specifically allows the owner to use an interim verification as the basis for submitting certain forms to DEEP under the Transfer Act about the site's environmental status. It allows the owner to use the verification as the basis for submitting a Form II, the document certifying that any prior contamination was remediated. Under current law, the owner can use verification only if the entire site or area where hazardous waste was released ("release area") was completely remediated.

The bill also allows the owner to use the verifications as a basis for submitting a Form IV, the document certifying that the site was remediated according to DEEP standards. It allows the owner to do so with respect to the entire site, part of it, or the release area.

Voluntary Remediation Program in Designated Groundwater Areas

DEEP's runs a separate voluntary remediation program for sites in

areas where the groundwater is (1) suitable for specific industrial purposes, but not human consumption (classified as GB) or subject to municipal and industrial discharge and unsuitable for human consumption (GC). In these areas, the bill allows an owner, under a LEP's supervision, to investigate and remediate parts of the site and submit a final verification for each remediated part.

Conveyances under the Transfer Act

The bill allows property owners who have not participated in a voluntary remediation program and who are conveying or transferring contaminated sites to investigate and remediate a part of the site and submit the required forms for that part instead of waiting until the entire site is remediated. It allows them to do so for interim and final verifications.

TRANSFER ACT EXEMPTIONS

Hazardous Building Materials

The bill expands the range of property exempted from the Transfer Act, which requires one of the parties in a real estate transaction to notify DEEP if a hazardous waste or substance was released at a site and, if so, who will investigate and remediate it.

Current law exempts from the act property where the remediation activities generated hazardous waste. The bill also exempts property where the removal or abatement of hazardous building materials generated the waste. Such material contains polychlorinated biphenyls, asbestos, hazardous substances, or toxic substances identified in the federal Toxic Substances Control Act (USC 2601 et seq.).

Municipal Takings

The bill exempts from the Transfer Act any property a municipality takes by eminent domain, not just property taken under specified municipal development statutes. The bill also exempts the property from the act if the municipality subsequently conveys it to another party. The law generally exempts such transfers from the act if the party acquiring the property did not pollute it and the party or the

municipality voluntarily agrees to remediate it.

BACKGROUND

Related Bill

HB 5544, favorably reported by the Environment Committee, also allows interim verification for a part of a site.

COMMITTEE ACTION

Commerce Committee

Joint Favorable Substitute

Yea 17 Nay 0 (03/20/2014)