

HOUSE BILL REPORT

HB 2191

As Reported By House Committee On:

Agriculture & Ecology
Appropriations

Title: An act relating to dairy waste.

Brief Description: Creating a dairy waste management program.

Sponsors: Representatives Koster, Chandler, Robertson and Honeyford.

Brief History:

Committee Activity:

Agriculture & Ecology: 3/3/97, 3/5/97 [DPS];
Appropriations: 3/8/97 [DP2S(w/o sub AGEC)].

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Chandler, Chairman; Parlette, Vice Chairman; Schoesler, Vice Chairman; Linville, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Cooper; Delvin; Koster; Mastin; Regala and Sump.

Staff: Rick Anderson (786-7114).

Background: Federal water quality laws and regulations require certain dairy farms to be covered by a national pollution discharge elimination system (NPDES) permit. The Department of Ecology (DOE) has been delegated by the federal Environmental Protection Agency to administer these permits. Legislation enacted in 1993 formalized an existing dairy waste management process that had been developed in 1988 between the DOE and the State conservation commission. The 1993 legislation assigned duties to the conservation commission, to local conservation districts, and to the DOE.

Under the legislation, inspections are generally initiated when a complaint is received or when the DOE believes that a dairy farm is a likely source of pollution. If the DOE confirms a water quality violation and the violation is not immediately corrected, the dairy farm is subject to a general NPDES permit, is required to develop and implement a dairy animal waste management plan, and is generally referred to the local conservation district. A dairy waste management plan must be

prepared within six months, implemented within an 18 additional months, and must meet standards and specifications developed by the federal natural resource conservation service.

Conservation districts must commit to provide one of four levels of involvement to dairy farmers. Conservation districts at level one provide minimum technical assistance to dairy farmers. At levels two through four, districts provide increasingly greater levels of technical assistance to develop and implement dairy animal waste management plans. Conservation districts at level four are also involved in resolving enforcement actions between the DOE and a dairy farmer. Most conservation districts have agreed to participate at level three.

The DOE has enforcement responsibilities and conducts inspections if a complaint is filed or if the DOE believes the farm is a likely source of water pollution. The DOE has authority to levy penalties of up to \$10 thousand per violation per day for discharges of pollution into state surface or groundwaters. The conservation commission has general responsibilities for coordinating communication between local conservation districts and the DOE.

Summary of Substitute Bill:

Inspections

The regulatory system for dairy waste management is substantially revised. By July 1, 1998, each dairy farm in the state is required to undergo an inspection. The inspections are to be conducted jointly by the DOE and the local conservation district. The DOE has enforcement responsibilities and local conservation districts are to provide technical assistance to the DOE and to the dairy farmer. Dairy farms that are determined to have had a direct discharge to state waters and farms that are required to have dairy waste plans are subject to on-going inspections. By December 31, 1997, the DOE must develop and maintain a system to track dairy waste water quality violations, enforcement actions, and dairy waste management plan implementation.

Planning

A dairy farm must prepare a dairy animal waste management plan if it has been documented as having a discharge of waste into state waters or is considered by the DOE to be a significant contributor of pollution. A plan must be completed within six months and be fully implemented within 18 months. The conservation commission is required to develop up to four technical assistance teams to create regionally appropriate standards and specifications for components of a dairy waste plan. In implementing a plan, a farmer may use the following standards and specifications: regional standards developed by the commission's teams, standards developed by the federal natural resource conservation service, or any specifications certified by a professional engineer.

Agency Responsibilities

The four levels of local conservation district involvement are repealed. The DOE has authority to receive complaints, conduct inspections, require the use of appropriate standards for farmers required to plan, develop a regulatory tracking system, and to enforce violations involving discharges into state waters. Local conservation districts are required to forward complaints to the DOE, provide technical assistance at all inspections, and provide technical assistance to farmers developing or implementing a dairy waste management plan. The conservation commission is required to serve as chair of a dairy waste program coordination and oversight committee.

Oversight Committee

The oversight and coordination committee is to consist of representatives from the DOE, the Commission, the Environmental Protection Agency, the natural resources conservation district, the dairy federation, an environmental organization, and the shellfish industry. The committee is to provide oversight to the inspection program. Specific duties include reviewing the development and use of the DOE's tracking system, monitor the development and use of regional management plan standards, and developing a performance based method to determine the frequency of inspections for farms subject to ongoing inspections.

Enforcement, Penalties, Account

The DOE is to use its existing enforcement authority for water pollution. A dairy waste management account is created. Monetary penalties that are assessed for the first discharge into state waters must be returned to the dairy farmer committing the violation, if the violation is corrected within two weeks. Monetary penalties for subsequent violations are deposited into the account to assist in the development and implementation of dairy waste management plans.

Substitute Bill Compared to Original Bill: The original bill contained provisions allowing the DOE to inspect for imminent discharges, require planning for dairy farms that were found to have imminent discharges, and creating penalties for imminent discharges. The original bill also created a monetary penalty structure based on the production of milk at a dairy farm. The substitute bill deletes these provisions.

Appropriation: None.

Fiscal Note: Requested on March 5, 1997.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: The federal Environmental Protection Agency (EPA) will be increasing its regulatory involvement with dairy waste in Washington State. The EPA

has begun evaluating dairy farm practices in Whatcom County. It is expected that a high percentage of these farms will not be compliance with federal and state requirements. Idaho and Oregon have established viable state programs. Washington needs to develop a viable program, that is not based on a in complaint-driven system, to avoid further involvement by the EPA. The current regulatory program for dairy waste management is broken. The process needs to be simplified. The DOE should retain its existing enforcement authority. Local conservation districts need additional fiscal and human resources to provide the necessary amount of technical assistance. There are 850 dairy farms in the state; each of them have special needs.

Testimony Against: Many of the dairy federation's members are concerned with the speed at which this legislation is progressing. The federation is concerned with EPA involvement and supports a survey to identify any existing problems. The existing law needs to be enforced.

Testified: Chuck Clarke, Environmental Protection Agency (pro); Linda Crerar, Department of Ecology (pro); Steve Meyer, Washington State Conservation Commission (pro); Debbie Becker, Washington State Dairy Federation (commented); Larry Kytola (con); Victor Jensen, (con); and Robert VanWeerdhuizen, Whatcom County Dairy Farmer (comment).

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 Agriculture & Ecology. Signed by 30 members: Representatives Huff, Chairman; Alexander, Vice Chairman; Clements, Vice Chairman; Wensman, Vice Chairman; H. Sommers, Ranking Minority Member; Doumit, Assistant Ranking Minority Member; Gombosky, Assistant Ranking Minority Member; Benson; Carlson; Chopp; Cody; Cooke; Crouse; Grant; Keiser; Kenney; Kessler; Lambert; Linville; Lisk; Mastin; McMorris; Parlette; Poulsen; Regala; D. Schmidt; Sehlin; Sheahan; Talcott and Tokuda.

Staff: Nancy Stevenson (786-7137).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Agriculture & Ecology: The only change is an addition of a null and void clause.

Appropriation: None.

Fiscal Note: Requested on March 5, 1997.

Effective Date Ninety days after adjournment of session in which bill is passed. However, the bill is null and void unless funded in the budget.

Testimony For: The Department of Ecology is working with the interested parties on this issue. The Governor's recommended funding level would allow the department to have one inspector per 80 farms compared to the current level of one inspector per 350 farms.

Testimony Against: None.

Testified: Mike Lewelyn, Department of Ecology.