

SENATE BILL REPORT

SSB 5636

As Passed Senate, January 28, 1998

Title: An act relating to health inspection warrants.

Brief Description: Revising health inspection warrants for local health officers in response to pollution in commercial or recreational shellfish harvesting areas.

Sponsors: Senate Committee on Natural Resources & Parks (originally sponsored by Senators Oke, Swecker, Rossi and Horn).

Brief History:

Committee Activity: Natural Resources & Parks: 2/20/97, 2/27/97 [DPS].

Passed Senate, 3/19/97, 48-0.

Passed Senate, 1/28/98, 45-3.

SENATE COMMITTEE ON NATURAL RESOURCES & PARKS

Majority Report: That Substitute Senate Bill No. 5636 be substituted therefor, and the substitute bill do pass.

Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Jacobsen, Morton, Prentice, Spanel, Stevens and Swecker.

Staff: Vic Moon (786-7469)

Background: Two recent Washington State Supreme Court decisions have made it impossible for local governments to obtain civil inspection warrants. As a result, agencies such as health departments have not been able to have inspections to guarantee health and safety protection provisions of existing law.

There has been a trend to decriminalize health and safety codes so that violations can be dealt with quickly and effectively without a criminal proceeding. The decision of the Washington State Supreme Court has eliminated the authority of local government to have a judge issue a warrant for search on a civil infraction. The court held that authority must be specifically delegated to the local government by the state Legislature and cannot be inferred from any other statutory authority.

Summary of Bill: A local health officer or his or her designee may apply for an administrative search warrant to any court official who is authorized to issue a criminal search warrant. The court official must issue the warrant upon probable cause. Probable cause means that there is a demonstration that the inspection, examination, test or sampling is in response to pollution in commercial or recreational shellfish harvesting areas. A specific administrative plan must be developed in response to the pollution. The property owner must be notified of the warrant request and may be present when it is discussed.

The local health officer must submit the pollution plan to the court as part of the justification for the civil warrant. The plan must include the overall goal of the inspection, the address of the area included, the survey procedures used, the criteria used to define an on-site sewage system failure and what follow-up actions may be taken.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: Health departments need to have authority to enforce health requirements to protect shellfish beds.

Testimony Against: The bill needs to be more specific to protect property owners.

Testified: PRO: Dr. Willa Fisher, Kitsap County Health Department; Warren Dawes, Health District; Dianne Cooper, shellfish grower; Dick Sheldon, oyster grower; CON: John Woodring, representing apartment house owners; Doug Neyhart, Seattle Apartment House Owners.

House Amendment(s): County environmental health directors are added to the definition of local health officer and both may appoint a designee.