

# FINAL BILL REPORT

## SSB 6161

---

### PARTIAL VETO

C 262 L 98

Synopsis as Enacted

**Brief Description:** Creating a dairy nutrient management program.

**Sponsors:** Senate Committee on Agriculture & Environment (originally sponsored by Senators Swecker, Newhouse, Rasmussen and Anderson).

**Senate Committee on Agriculture & Environment**

**Senate Committee on Ways & Means**

**House Committee on Agriculture & Ecology**

**House Committee on Appropriations**

**Background:** The federal Clean Water Act establishes requirements and a regulatory framework for the regulation of discharges to surface waters from dairy farms. The federal framework differs for three size categories of dairy operations. The Department of Ecology is authorized to administer the federal Clean Water Act in Washington State. In addition, state water quality laws not only regulate discharges to surface waters, but also to ground water.

The Department of Ecology currently administers a dairy waste management program established in 1993. The program requires inspection of dairy farms if there is a third party complaint or if the Department of Ecology believes that a dairy farm is a likely source of water quality degradation. Under the current program, dairy farms that are found to be discharging are referred to the Conservation Commission and local conservation districts for technical assistance. The dairy farm is required to develop a dairy waste management plan within six months and to fully implement the plan in the ensuing 18-month period.

In early 1997, the federal Environmental Protection Agency conducted inspections of dairy farms in one river basin due to water quality concerns and noncompliance by some dairy farms with federal water quality laws. Currently, there is not a periodic inspection of dairy farms so the rate of compliance with state and federal water quality laws is not known.

**Summary:** The dairy waste management program is modified by requiring that every dairy farm be inspected at least once within two years and that every dairy producer develop a dairy nutrient management plan. Other provisions of the new program include an appeals process, an advisory and oversight committee and technical assistance teams, response times to complaints, creation of an account, and fees for dairy producers who hold a National Pollution Discharge Elimination System (NPDES) permit.

The term violation— is defined to mean discharges of pollutants to waters of the state except for those discharges that are caused by extreme weather events or as may be allowed under federal regulations or federal permit.

Every dairy producer licensed as a dairy in the state of Washington must register with the Department of Ecology by September 1, 1998. The purpose of registration is to compile baseline information about numbers of cows per acre and the status of dairy nutrient management.

The Department of Ecology must inspect every dairy farm in the state within two years. The department may conduct such additional inspections as necessary to ensure compliance with state and federal water quality requirements. At its option, the local conservation district may accompany a Department of Ecology inspector on any scheduled dairy farm inspection, except random unannounced inspections.

Dairy producers must have an approved dairy nutrient management plan by July 1, 2002, and a certified plan by December 31, 2003. The Conservation Commission, in conjunction with the advisory and oversight committee, defines elements that dairy nutrient management plans must contain. If a person already has a certified plan, that person does not need to plan again. If any plan fails to prevent the discharge of pollutants to waters of the state, however, the plan must be updated. Alternative dairy nutrient management standards are encouraged, provided they also prevent the discharge of pollutants and are applied appropriately to individual dairy operations.

Certain conservation district decisions pertaining to the review or lack of approval or certification of dairy nutrient management plans are appealable to the Pollution Control Hearings Board. Informal hearings before the Conservation Commission are also available.

To manage and track information from the inspections, as well as information related to planning and enforcement actions, the Department of Ecology, in consultation with the Conservation Commission, must create and maintain a database.

An advisory and oversight committee is created to monitor and advise the overall dairy nutrient management program. Technical assistance teams of persons with expertise in dairy nutrient management are created to serve four geographic areas of the state. These teams are created to assist dairy producers in developing dairy nutrient management plans. The teams also develop standards and specifications that are appropriate to conditions in the four geographic areas.

The department must investigate any written complaint within three days of receiving the complaint. For first offenses of water quality laws, the department may waive a penalty.

Fines for violations of planning requirements may be levied by the Department of Ecology upon request of the Conservation Commission. Fines may not exceed \$5,000 for non-compliance with planning deadlines and \$100 for failure to register.

An account is created to receive any penalties that may be paid by dairy producers for violations of planning requirements. The balance in this account may only be used to provide grants to local conservation districts for assisting dairy producers in developing and fully implementing dairy nutrient management plans.

The fee for a NPDES permit issued for discharges related to dairy nutrients is 50 cents per animal unit covered by the permit, up to the maximum fee provided in the Washington

Administrative Code. After fiscal year 1999, such fees may rise in accordance with the fiscal growth factor.

An annual report to the Legislature is required until 2002 on progress made to implement the provisions of Chapter 90.64 RCW.

**Votes on Final Passage:**

Senate	47	0
House	97	1 (House amended)
Senate	37	12 (Senate concurred)

**Effective:** April 1, 1998

**Partial Veto Summary:** The section establishing an advisory committee and authority for providing reimbursement for travel and per diem to members of the advisory committee is vetoed.