

HOUSE BILL REPORT

HB 1482

As Reported by House Committee On:
Agriculture & Natural Resources
General Government Appropriations

Title: An act relating to reclaimed water permitting.

Brief Description: Concerning reclaimed water permitting.

Sponsors: Representatives McCoy, Chandler, Blake, Van De Wege, Kretz, Upthegrove and Nelson; by request of Department of Ecology.

Brief History:

Committee Activity:

Agriculture & Natural Resources: 1/27/09, 2/20/09 [DPS];
General Government Appropriations: 2/26/09 [DPS(AGNR)].

Brief Summary of Substitute Bill

- Redefines several definitions relating to reclaimed water systems.
- Authorizes reclaimed water to be beneficially used for surface percolation if the reclaimed water meets state drinking water contaminant criteria.
- Provides rule making authority for the Department of Ecology (DOE) and the Department of Health in establishing a lead agency to carry out all the provisions of the reclaimed water code, including enforcement and permitting.
- Authorizes the DOE to use fees to administer reclaimed water system permits.
- Establishes permit provisions for a reclaimed water project.
- Allows the lead agency to enter and inspect the permitted properties in order to determine compliance with laws and rules.
- Prohibits use of reclaimed water if the use causes detriment or injury to existing water rights.
- Authorizes penalties up to \$10,000, imprisonment in the county jail up to one year, or both, for violations of the reclaimed water code.

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.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Blake, Chair; Jacks, Vice Chair; Liias, McCoy, Nelson, Ormsby and Van De Wege.

Minority Report: Do not pass. Signed by 5 members: Representatives Chandler, Ranking Minority Member; Smith, Assistant Ranking Minority Member; Kretz, Pearson and Warnick.

Staff: Jaclyn Ford (786-7339)

Background:

Reclaimed water is an effluent derived from a wastewater treatment system that has been treated in order to be suitable for a beneficial use or a controlled use that otherwise would not occur. Reclaimed water may be used for a variety of non-potable water purposes, including irrigation, agricultural uses, industrial and commercial uses, stream flow augmentation, dust control, fire suppression, surface percolation, and discharge into constructed wetlands.

The Department of Health (DOH) issues permits to water generators for commercial or industrial uses of reclaimed water. The Department of Ecology (DOE) issues reclaimed water permits for land applications of reclaimed water. The DOH and the DOE were required to adopt a single set of standards, procedures, and guidelines for industrial and commercial uses and land applications of reclaimed water. These standards were adopted in the mid-1990s and resulted from consultation with an advisory committee of stakeholders.

Several task forces established by the DOE and the DOH have reviewed the current reclaimed water regulations and have suggested ways to make development of reclaimed water facilities easier and more efficient.

Summary of Substitute Bill:

Reclaimed water may be beneficially used for surface percolation if it meets the state drinking water contaminant criteria.

The DOE and the DOH have rule-making authority to carry out the provisions of the reclaimed water code, including rule-making authority on permitting and enforcement. The DOE and the DOH will determine by rule which agency must act as the lead agency.

The reclaimed water permit must include provisions that protect human health and the environment. The permit also must assure adequate and reliable treatment, and govern the water quality, location, rate, and purpose of use. A permit may only be issued to: (1) a municipal, quasi-municipal, or governmental entity; (2) a private utility; (3) the holder of a waste disposal permit; (4) the owner of an agricultural processing facility that is generating agricultural industrial process water for agricultural use; or (5) the owner of an industrial facility that is generating industrial process water for reuse.

Private utilities may have to provide information to the lead agency verifying that they have the financial resources to ensure the reliability, continuity, and supervision of the reclaimed water facility.

The lead agency must provide adequate public notice and opportunity for review and comment on all initial permit and renewal applications. The permitting decision is appealable.

The DOE may use permit fees for administration of the reclaimed water system permits.

The lead agency has the right to enter and inspect any public or private property related to the reclaimed water permit to determine compliance with laws and rules. During inspections, the lead agency must have free and unimpeded access to all data, facilities, and property involved in the generation, distribution, and use of reclaimed water.

All plans, reports, and proposed methods of operation and maintenance must be approved by the lead agency before construction may begin. Once approved, the permittee may then distribute and use the water, subject to the provisions in the permit.

Permit requirements for the distribution and use of greywater will be established in rules adopted by the DOH. Use of reclaimed water may only occur if the use does not cause detriment or injury to existing water rights.

Violations of the reclaimed water code may include fines up to \$10,000 and the costs of prosecution, imprisonment in the county jail up to one year, or both. Each day of a willful violation of the reclaimed water code may be deemed a separate and additional violation.

Substitute Bill Compared to Original Bill:

The substitute bill requires:

- that the use of reclaimed water occur only if the use does not cause detriment or injury to existing water rights;
- any person proposing to generate any type of reclaimed water obtain a permit from the lead agency prior to the distribution or use of that water. The permittee may then distribute and use the water, subject to the provisions in the permit; and
- permit requirements for the distribution and use of greywater be established in rules adopted by the DOH.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 20, 2009.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill will streamline and clarify the reclaimed water process. It does not change the impairment statute. This bill will help avoid duplication between the DOE and the DOH. Stakeholder involvement was strong in the creation of this bill. In this bill, definitions are cleaned up. This bill will open doors to using reclaimed water facilities.

(Opposed) Reclaimed water is not new water.

Persons Testifying: (In support) Representative McCoy, prime sponsor; Melodie Selby, Department of Ecology; Maryanne Guichard, Department of Health; Karla Fowler, Lacey, Olympia, Tumwater, and Thurston County Alliance (LOTT); Scott Hazlegrove, Washington Association of Sewer and Water Districts; and Kathleen Collins, Washington Water Policy Alliance.

(Opposed) Dawn Vyvyan, Puyallup Tribe and Yakama Nation.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS

Majority Report: The substitute bill by Committee on Agriculture & Natural Resources be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Darneille, Chair; Takko, Vice Chair; Blake, Dunshee, Hudgins, Kenney, Pedersen, Sells, Van De Wege and Williams.

Minority Report: Do not pass. Signed by 4 members: Representatives McCune, Ranking Minority Member; Hinkle, Assistant Ranking Minority Member; Armstrong and Short.

Staff: Owen Rowe (786-7391)

Summary of Recommendation of Committee On General Government Appropriations Compared to Recommendation of Committee On Agriculture & Natural Resources:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill was requested by the Department of Ecology (Department), and was developed through a stakeholder process. This bill addresses work that the Department is already doing, but enables us to do it smarter by streamlining the law. The provisions of the

crime are the same as in current statute; the Department has never used enforcement in the past and hope that we don't ever need to.

(Opposed) None.

Persons Testifying: Representative McCoy, prime sponsor; and Melodie Selby, Department of Ecology.

Persons Signed In To Testify But Not Testifying: None.