

# SENATE BILL REPORT

## SB 5504

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As of February 3, 2009

**Title:** An act relating to reclaimed water permitting.

**Brief Description:** Concerning reclaimed water permitting.

**Sponsors:** Senators Fraser, Honeyford, Rockefeller, Marr, Kline and Morton; by request of Department of Ecology.

**Brief History:**

**Committee Activity:** Environment, Water & Energy: 2/03/09.

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### SENATE COMMITTEE ON ENVIRONMENT, WATER & ENERGY

**Staff:** Karen Epps (786-7424)

**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 nonpotable 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. DOH and 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 interested stakeholders.

In 2006 the Legislature required DOE to adopt rules for reclaimed water use, in coordination with DOH, and in consultation with the Rules Advisory Committee (RAC). The rules must address all aspects of reclaimed water use, including industrial uses, surface percolation, and stream flow augmentation. To this end, DOE and DOH, with the involvement of the RAC and several other task forces, have reviewed the current reclaimed water regulations and have suggested ways to make development of reclaimed water facilities easier and more efficient.

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*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.*

**Summary of Bill:** DOE and DOH will determine by rule which agency will act as the lead agency for purposes of the reclaimed water code. Both agencies have the authority to carry out the provisions of the reclaimed water code, including permitting and enforcement. The lead agency must refer all permit applications to the nonlead agency for review and consultation. DOE may use permit fees for administration of the reclaimed water system permits. All plans, reports, and proposed methods of operation and maintenance must be approved by the lead agency before construction may begin.

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 in the manner established for the agency acting as the lead agency on that application.

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.

The lead agency has the right to enter and inspect any public or private property related to the reclaimed water permit in order to determine compliance with laws and rules. Violations of the reclaimed water code may include fines up to \$10,000 and the costs of prosecution, imprisonment in the county jail of not more than one year, or both. Each day of a willful violation of the reclaimed water code may be deemed a separate and additional violation. Penalties imposed by DOE go to the General Fund, whereas penalties imposed by DOH must be used to provide training and technical assistance to reclaimed water system owners and operators.

If the proposed use of reclaimed water is to augment or replace potable water supplies or to create the potential for the development of an additional new potable water supply, then regional water supply plans must consider the proposed use of the reclaimed water.

**Appropriation:** None.

**Fiscal Note:** Requested on January 23, 2009.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony:** PRO: This bill is designed to streamline the permitting process. This bill does not address or change the impairment standard for reclaimed water projects. This bill creates a mechanism to clarify the permitting of reclaimed water projects. This bill is designed to clear up ambiguities that currently exist by establishing in rule who the lead agency is for permitting purposes. Water and Sewer districts want to develop reclaimed water projects and this bill will assist in that endeavor.

CON: Both the Yakama Nation and the Puyallup Tribe have concerns about the use of reclaimed water in their basins. It is important that tribes be included early in the permitting process on reclaimed water projects. Additionally, there is concern about the impairment standard that is currently in place. There are due process concerns for other parties who could be harmed by a reclaimed water project.

OTHER: There is concern about the effect of treated water into the aquifers. There are chemicals in wastewater that are not removed from the water. This bill loosens all the rules around injecting water into our water supply.

**Persons Testifying:** PRO: Melodie Selby, DOE; Maryanne Guichard, DOH; Karla Fowler, LOTT Alliance; Scott Hazelgrove; Washington Association of Sewer & Water Districts; Kathleen Collins, Washington Water Policy Alliance.

CON: Dawn Vyvyan, Yakama Nation and Puyallup Tribe of Indians.

OTHER: Dennis Burke, citizen.