

# SENATE BILL REPORT

## SB 5584

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As Reported by Senate Committee On:  
Agriculture, Water & Rural Economic Development, February 19, 2015

**Title:** An act relating to water quality determinations made by the department of ecology.

**Brief Description:** Concerning water quality determinations made by the department of ecology.

**Sponsors:** Senator Dandel.

**Brief History:**

**Committee Activity:** Agriculture, Water & Rural Economic Development: 2/10/15, 2/19/15 [DPS-WM].

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### SENATE COMMITTEE ON AGRICULTURE, WATER & RURAL ECONOMIC DEVELOPMENT

**Majority Report:** That Substitute Senate Bill No. 5584 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Warnick, Chair; Dandel, Vice Chair; Honeyford.

**Staff:** Diane Smith (786-7410)

**Background:** No metrics used, if any, are required of the Department of Ecology (Ecology) to substantiate its determinations, orders, or directives that find that a person will violate or has created a substantial potential to violate the provisions of the Water Pollution Control Act.

The sequence of notification begins with a determination sent by registered mail. The person has 30 days to file a full report with Ecology stating the efforts made to comply with the determination. Next, Ecology notifies the person by registered mail of Ecology's order or directive in response. Ecology may by-pass this step if it deems immediate action necessary. In that case it may personally serve or send an order or directive by registered mail.

**Summary of Bill:** The bill as referred to committee not considered.

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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 (Recommended Substitute):** All Ecology's determinations, orders, and directives issued under this authority must be based on a preponderance of actual site-based, source-specific environmental testing.

**Appropriation:** None.

**Fiscal Note:** Available.

**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 is a fair bill to add clarity and transparency to agency actions. DOE is merely being asked to test before issuing potential to pollute letters. Actually, there is no consensus on the agriculture and water quality workgroup. Eastern Washington ranchers do not contribute to Puget Sound's water pollution problems. Complaints from neighbors initiate the site visits that are made but even those visits are often off target. There are other experts besides the departments, who do not find problems with ranchers' activities. If there is a problem, wildlife's contribution seems to be ignored.

CON: The bill would reduce or eliminate the department's ability to meet water pollution act requirements. It creates hurdles to the preventative purpose of the act. Access is not always available. Non-point pollution happens episodically. A preponderance of the evidence is already the standard and the evidence is broader than just chemistry. The effect of manure spreading on Samish Bay is detrimental to the drinking water and costly to shellfish farmers. It is much more difficult to reclaim resources than to prevent pollution. If there were money in the budget to test the DNA of pollutants then it would be fine to do it. Good progress is being made on enforcement guidance in the agriculture and water quality workgroup.

**Persons Testifying:** PRO: Senator Dansel, prime sponsor; Scott Nielsen, Lee Engelhardt, Cattle Producers of WA; Jack Field, WA Cattlemen's Assn.; Evan Sheffels, WA Farm Bureau.

CON: Kelly Susewind, Ecology; Jerrod Davis, WA State Dept. of Health, Shellfish Program; Jeff Parsons, Puget Sound Partnership; Bruce Wishart, Sierra Club, Center for Environmental Law and Policy.