

SENATE BILL REPORT

SB 6083

As Reported by Senate Committee On:
Energy, Environment & Technology, January 31, 2018

Title: An act relating to maintaining public health, safety, and environmental standards.

Brief Description: Maintaining public health, safety, and environmental standards.

Sponsors: Senators Cleveland, Ranker, Kuderer, Keiser, Conway, Hunt and Hasegawa.

Brief History:

Committee Activity: Energy, Environment & Technology: 1/24/18, 1/31/18 [DP-WM, DNP, w/oRec].

Brief Summary of Bill

- Requires state and local agencies to maintain and enforce certain environmental and drinking water laws at federal baseline standards.
- Requires state and local agencies to adopt standards, if a standard has not been established and where there is a federal baseline standard.
- Requires the Department of Ecology (Ecology) to submit an annual report to the Legislature summarizing state and local implementation actions and federal activities that would weaken baseline federal standards.

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TECHNOLOGY

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Carlyle, Chair; Palumbo, Vice Chair; Hobbs, McCoy, Ranker and Wellman.

Minority Report: Do not pass.

Signed by Senators Ericksen, Ranking Member; Brown and Sheldon.

Minority Report: That it be referred without recommendation.

Signed by Senator Hawkins.

Staff: Jan Odano (786-7486)

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.

Background: The federal Clean Air Act (CAA) regulates air emissions from stationary and mobile sources. Under the CAA, the Environmental Protection Agency (EPA) establishes National Ambient Air Quality Standards (NAAQS) to protect public health and public welfare and to regulate emissions of hazardous air pollutants.

Under the CAA, each state maintains a State Implementation Plan that describes how the state clean air programs achieve the federal ambient air quality standards for air pollutants. The Ecology and local air pollution control authorities (local air authorities) administer the clean air act. Local air agencies have the primary responsibility for administering state and federal CAAs in counties which have elected to activate a local air authority or to form a multicounty air authority. In other areas of the state, Ecology is responsible for administering state and federal CAA programs.

EPA adopted Transportation Conformity Regulations, which apply to highways and mass transit. The regulations provide criteria and procedures to determine whether transportation plans, program, and projects that are federally funded conform with state implementation plans. The purpose of the regulations is to ensure that federal activities do not cause or contribute to new violations of the NAAQS.

The federal water pollution control act, more commonly known as the Clean Water Act (CWA) regulates discharges of pollutants into the waters of the United States. The EPA, under the CWA, implements pollution control programs and sets wastewater standards for industry and water quality standards for surface waters. A National Pollution Discharge Elimination System (NPDES) permit is required to discharge any pollutant from a point source into navigable waters. Industrial, municipal, and other facilities must have a NPDES permit to discharge directly into surface waters. Ecology has delegated authority as the water pollution control agency for the state. Ecology is authorized to establish and administer a state point source waste discharge or pollution discharge elimination permit program as well as to determine program elements. These elements may include treatment requirements, water quality standards and facility performance requirements.

The Safe Drinking Water Act (SDWA) is federal law that assures drinking water quality. Under SDWA, EPA sets standards for drinking water quality for both natural and man-made contaminants. EPA oversees states, localities and water suppliers implementing those standards and protecting water sources. EPA establishes minimum standards for drinking water and all owners or operators of public water systems must comply with these health-related standards. The State Board of Health (SBOH) is required to adopt rules for public waters systems that includes, drinking water quality standards, monitoring requirements, system planning, emergency, operation and maintenance requirements, and source or supply quality standards. The state Department of Health (DOH) administers the state drinking water program. DOH and local health jurisdictions enforce regulations pertaining to public water systems.

Summary of Bill: Ecology and local air authorities may not amend or revise its rules or regulations regarding air pollution, or for federal laws or state laws that are analogues to federal law, for which they have delegated authority to implement or enforce, to be less stringent than baseline federal standards, except as where otherwise provided in state law. However, Ecology and local air authorities may establish rules and regulations for which

they have delegated authority to enforce or implement that are more stringent than federal baseline standards for other federal laws.

Ecology and local air authorities must:

- maintain and enforce all air quality requirements and standards that are at least as stringent as the federal baseline greenhouse gas laws;
- adopt standards or requirements for air pollutants that are at least as stringent as the baseline federal standard, if they have not established a standard or requirement;
- adopt elements of air quality state implementation plans that are at least as stringent as baseline federal standards, in addition to those required by state law;
- implement equivalent requirements to the federal transportation conformity program that are at least as stringent as baseline federal standards; and
- establish a state prevention of significant deterioration program, if EPA does not implement its program.

Ecology must:

- maintain and enforce all water quality standards that are at least as stringent as the baseline federal standard; and
- adopt standards or requirements for water quality that are at least as stringent as the baseline federal standard, if they have not established a standard or requirement.

After January 1, 2018, all waste disposal requirements and water quality clean-up plans and permits must be at least as protective and comply with all water quality standards as in the federal baseline standards, in addition to requirements in any state law. Renewed or amended waste discharge requirements or water quality clean-up plans must include water quality standards that are at least as protective as federal baseline standards.

SBOH must:

- maintain and enforce all drinking water quality standards that are at least as stringent as the baseline federal standard; and
- adopt standards or requirements for drinking water quality that are at least as stringent as the baseline federal standard, if they have not established a standard or requirement.

After January 1, 2018, drinking water systems operating permits must be at least as protective of public health and comply with all applicable drinking water standards, as required in the federal baseline standards, in addition to requirements in any state law.

Baseline federal standards are defined to mean authorizations, policies, objectives, rules, requirements, and standards in federal laws or regulations in existence as of January 1, 2016, or January 1, 2017, whichever is more stringent.

Ecology, local clean air agencies, SBOH, and the attorney general must make all feasible efforts under state and federal law to implement this act. By December 1, 2018, and every year after, Ecology is required to submit a report to the Legislature, summarizing state and local actions to implement this act and federal activities that would weaken baseline federal standards.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: This bill prohibits agencies from lowering standards below 2016 federal standards. Good health and wellness is dependent on clean air and water and a clean environment. Health and wellness should be our priority.

OTHER: This bill may require us to adopt rules that do not apply.

Persons Testifying: PRO: Senator Annette Cleveland, Prime Sponsor.

OTHER: Joanna Grist, Puget Sound Clean Air Agency.

Persons Signed In To Testify But Not Testifying: No one.