

HOUSE BILL REPORT

SSB 5504

As Reported by House Committee On:
Agriculture & Natural Resources

Title: An act relating to reclaimed water permitting.

Brief Description: Concerning reclaimed water permitting.

Sponsors: Senate Committee on Environment, Water & Energy (originally sponsored by Senators Fraser, Honeyford, Rockefeller, Marr, Kline and Morton; by request of Department of Ecology).

Brief History:

Committee Activity:

Agriculture & Natural Resources: 3/13/09, 3/20/09 [DPA].

**Brief Summary of Substitute Bill
(As Amended by House)**

- 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 to determine compliance with laws and rules.
- Authorizes penalties up to \$10,000, imprisonment in the county jail for up to one year, or both, for violations of the reclaimed water code.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

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.

Majority Report: Do pass as amended. Signed by 12 members: Representatives Blake, Chair; Jacks, Vice Chair; Chandler, Ranking Minority Member; Smith, Assistant Ranking Minority Member; Grant-Herriot, Kretz, Lias, McCoy, Nelson, Ormsby, 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 Amended 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 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.

The DOE must review comments from the Reclaimed Water Committee and the Reclaimed Water and Water Rights Advisory Committee by November 30, 2009, and submit a recommendation to the Legislature on impairment and the standards for reclaimed water, as well as the positions of the stakeholders on those issues.

Violations of the reclaimed water code may include fines up to \$10,000 and the costs of prosecution, imprisonment in the county jail for 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.

Amended Bill Compared to Original Bill:

The amended bill added the requirement that the DOE must review comments from the Reclaimed Water Committee and Reclaimed Water and Water Rights Advisory Committee by November 30, 2009, and submit a recommendation to the Legislature on impairment and the standards for reclaimed water, as well as the positions of the stakeholders on those issues.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested March 23, 2009.

Effective Date of Amended 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 is a good government streamlining bill. All stakeholder advisory committees agreed to this bill. Under current standards the DOE may not issue a permit if a downstream user is impaired and can not reach agreement on mitigation. This bill does not address the impairment issue, but the stakeholder committee will continue to work on impairment and some other issues. Impairment is best dealt with through process. This bill will promote reclaimed water. This bill will clarify regulatory authority and strengthen existing law. RCW 90.03.380 brings in unnecessary complications and might bring all reclaimed water projects to a halt.

(Opposed) Reclaimed water is a good thing, but it's hard to determine how it might affect water basins. It would take water out of the basin that would be in-stream. Reclaimed water use might affect water right holders because of the movement of water, so the RCW 90.03.380 impairment analysis is important.

Persons Testifying: (In support) Melodie Selby, Department of Ecology; Dave Monthie, King County; Maryanne Guichard, Department of Health; Josh Weiss, Washington Association of Counties; Scott Hazlegrove, Washington Association of Sewer and Water Districts; and Kathleen Collins, Washington Water Policy Alliance.

(Opposed) Dawn Vyvyan, Yakama Nation.

Persons Signed In To Testify But Not Testifying: None.