

SENATE BILL REPORT

SB 5579

As Reported By Senate Select Committee On:
Water Policy, February 27, 1995

Title: An act relating to a general permit system for appropriating water.

Brief Description: Providing for streamlined permit processing of certain water permits.

Sponsors: Senators Swecker, Rasmussen, Morton, Wood, Moyer, Palmer and Haugen.

Brief History:

Committee Activity: Water Policy: 2/27/95 [DPS-WM].
Ways & Means: 3/3/95.

SENATE SELECT COMMITTEE ON WATER POLICY

Majority Report: That Substitute Senate Bill No. 5579 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Drew, Fraser, Haugen, Hochstatter, Morton, Newhouse, Oke, Rasmussen, Spanel, Sutherland, Swecker and Winsley.

Staff: Phil Moeller (786-7445)

Background: Current law requires that the Department of Ecology (DOE), when reviewing a water permit application, must investigate what water is available and what impact the proposed use would have on existing water rights and the public interest. DOE must make written findings of fact based on its investigation.

If DOE finds that there is water available, and no adverse impact on the public, it will issue a permit stating the amount of water to which the applicant is entitled and the uses to which the water may be utilized.

In some cases water can be diverted or withdrawn, used, and then returned to its source or point of diversion. Termed as "nonconsumptive uses," examples of these uses include some aquacultural projects and other applications.

Summary of Substitute Bill: The Department of Ecology (DOE) is directed to establish by January 1, 1996, a streamlined general permit system for nonconsumptive, nonbypass uses, agricultural uses, and multi-unit residential uses of water. These uses are further defined.

The general permit system applies statewide, or in specific geographic areas, except in areas where DOE, in consultation with the affected county or counties, determines that insufficient water is available to accommodate additional water allocations.

DOE must determine within 60 days of the completion of the filing protest period whether an application is eligible for general permit processing. If DOE determines that an

application is eligible, it must process the application within the next 60 days. If DOE determines that an application is not eligible, it must explain in writing the basis for its decision.

Fees for general permits are the same as those for ordinary permits under state law.

A water right holder under a general permit may not impair the rights of senior rights holders. A senior rights holder who believes his or her rights are impaired by a general permittee may file a complaint with DOE.

In developing the permit system, DOE must consult with interests representing agriculture and aquaculture; home construction and development; county, city and tribal governments; appropriate governmental water purveyors; and environmental groups. It must hold at least four public hearings on its proposed rules. Before January 1, 1996, DOE is directed to file a report with appropriate standing committees of the Legislature on its progress toward adopting rules for this general permit system.

A well established under the less-than 5000 gallons per-day exemption may provide water service for up to 12 housing units unless expressly prohibited by the appropriate local government. DOE shall require metering of these wells unless in certain situations it deems metering is not necessary. This provision expires after December 31, 1996.

Substitute Bill Compared to Original Bill: The original bill dealt only with non-consumptive, nonbypass uses of water. Provisions were added relating to the timing of the filing protest period. The exempt well provision was added.

Appropriation: None.

Fiscal Note: Requested on February 28, 1995.

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

Testimony For: This bill will allow for a more efficient permitting system. Small users of water will be able to obtain permits in a timely manner and the Department of Ecology can concentrate resources on more controversial permits that deal with larger quantities of water.

Testimony Against: None.

Testified: Senator Swecker, prime sponsor (pro).

SENATE COMMITTEE ON WAYS & MEANS

Staff: Susan Lucas (786-7711)

Testimony For: The bill would cover uses of water which return used water to the water source and thereby recharge the water source. These uses include stock watering and multiresidential developments of up to 60 houses. The bill allows 180 days for issuance of

the permit. The fiscal note on the bill does not take into account provisions for public notice and conversion to the regular application process if problems are encountered. The fiscal impact may be overstated.

Testimony Against: The bill will compromise the protection of senior right holders. The bill will cost the department in defending permits issued under the general application process. The bill is supposed to address de minimus appropriations of water but the limit of 65,000 gallons per day is too high. The concept is good, but the limit should be lowered.

Testified: Senator Dan Swecker, prime sponsor; Bruce Wishart, Sierra Club; Dawn Vyvyan, Yakima Indian Nation, Skagit System Co-op.