

SENATE BILL REPORT

ESSB 6666

As Passed Senate, February 8, 1996

Title: An act relating to nuisance aquatic weeds.

Brief Description: Providing for a long-term solution to nuisance aquatic weeds.

Sponsors: Senate Committee on Ecology & Parks (originally sponsored by Senators Winsley, Haugen, Fairley, Swecker, McDonald, Fraser, McAuliffe and Rasmussen).

Brief History:

Committee Activity: Ecology & Parks: 1/24/96, 2/2/96 [DPS].
Passed Senate, 2/8/96, 46-0.

SENATE COMMITTEE ON ECOLOGY & PARKS

Majority Report: That Substitute Senate Bill No. 6666 be substituted therefor, and the substitute bill do pass.

Signed by Senators Fraser, Chair; Fairley, Hochstatter, McAuliffe, Spanel and Swecker.

Staff: Susan Ridgley (786-7444)

Background: Rapid urbanization, the introduction of non-native plants and excessive plant nutrients have created aquatic plant problems for many lakes in Washington. Long term or permanent solutions like source control can be costly and difficult; citizens often prefer quicker, less expensive responses such as the use of aquatic pesticides. There is scientific debate about the health and environmental impacts of long-term use of aquatic pesticides.

Several state and local government entities are involved in lake management issues. The Department of Fish and Wildlife may require hydraulic approval permits before the use of manual or biological methods of control. The Department of Agriculture regulates aquatic pesticide applicators and approves pesticide uses. County government may also get involved through their shoreline permitting program or sometimes their health departments, as well as their noxious weed eradication programs (the state designates some non-native, invasive nuisance weeds as "noxious weeds").

The Department of Ecology issues short term modifications of water quality permits for the application of aquatic pesticides under their state and federal water quality authorities. The department has run this permit program based on a programmatic Environmental Impact Statement (EIS) for noxious emergent plants that was adopted in early 1992.

Limited options now exist for funding long term solutions. There has been a decrease in the amount of money in the state's centennial clean water fund potentially available for lakes and rivers, and the federal clean lakes program has been phased out. Under the statute regulating the outflow of lakes, lakeside property owners can petition the superior court for a special assessment to be levied to pay for weed control measures. There are about seven

lakes so managed, including Steilacoom, Louise, Gravelly, Ohop, American, Spanaway and Clear Lakes.

Summary of Bill: A committee is established to develop a state lake health plan to address long-term solutions to lake problems. The plan must look at: the science of lake management; an analysis of the federal and state laws pertaining to lakes; jurisdictional overlaps; funding needs and mechanisms; and public education requirements. The members of the committee include legislative, state agency, local government, academic and citizen representatives. The committee is staffed by a public institute at a college or university.

On lakes managed under the statute regulating the outflow of lakes, the Department of Ecology must expedite the consideration of the application of pesticides, in particular considering two herbicides, copper sulfate and diquat. The approval may be conditioned in actions to protect fish and to notify residents of the applications. Local health departments may be required to conduct sampling to determine the environmental effects of the applications. These approvals expire April 1, 1998, which is after the Legislature considers the recommendations in the lake health plan.

Appropriation: \$30,000.

Fiscal Note: Requested on February 2, 1996.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony for: Legislation is needed to deal with lake problems, especially when the lake's drainage is a huge unsewered area. These are long term problems and need long term solutions. A way must be found to fund cleaning up lakes that doesn't depend solely on lakeside homeowners or on city. There is confusion about the role of government agencies, and this needs to be clarified also. This bill appropriately gives discretion to Ecology to permit pesticide applications only if it makes sense in the particular case, and only according to both state as well as federal regulations. Fisheries can be destroyed by unconditional application of herbicides.

Testimony against: SB 6212 is a better bill than this one, because it addresses short term as well as long term solutions. Also, SB 6212 makes it clear that the use of registered pesticides is not pollution. Experienced applicators know how to control lake pollution and protect lake resident's health, but state regulations prevent it. Also, these applications should be allowed on all lakes, not just a few. The number of signs that Ecology wants erected all over the lake is unwise. It's a good idea to have a committee look at this, but there shouldn't be an Ecology representative on the committee; instead there should be an audit of Ecology's competency.

Testified: Herb Dayton, Tom Lowry, Lake Steilacoom Improvement Club; Doug Richardson, City of Lakewood; Lea Richter, Lake Steilacoom; Judith Freeman, WDFW; Mary Beth Lang, WSDA; Laurie Penders, State Weed Board.

House Amendment(s): The striking amendment replaced the language with that of HB 2834 (same as SB 6212). It allows shoreline owners to use an aquatic herbicide in a lake if the aquatic herbicide or algicide is used in conformance with its federal label requirements and is

applied by a licensed applicator. The Department of Ecology is directed to develop a general, long-term plan to maintain lake health using existing agency personnel and resources.

The composition of the legislative committee to develop a Washington State lake health plan differs, consisting of the chair and ranking minority member of six specified House and Senate committees.