

SENATE BILL REPORT

SB 5545

As Reported By Senate Committee On:
Environmental Quality & Water Resources, March 2, 1999

Title: An act relating to water pollution control.

Brief Description: Authorizing implementation of total maximum daily loads.

Sponsors: Senators Fraser and Kline.

Brief History:

Committee Activity: Environmental Quality & Water Resources: 2/2/99, 3/2/99 [DPS-WM].

Ways & Means: 3/5/99.

SENATE COMMITTEE ON ENVIRONMENTAL QUALITY & WATER RESOURCES

Majority Report: That Substitute Senate Bill No. 5545 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Fraser, Chair; Eide, Vice Chair; Jacobsen and Swecker.

Staff: Richard Ramsey (786-7412)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Kari Guy (786-7437)

Background: The federal Clean Water Act requires the state to set water quality standards based on designated uses of surface water, such as drinking water, swimming, and fishing. Significant progress has been made in cleaning the state's waters through technology-based controls on permitted point sources of pollution such as wastewater treatment plants and industrial facilities.

Section 303(d) of the Clean Water Act requires the state to identify and list all water bodies failing to meet water quality standards. Additionally, for each impaired water body on the 303(d) list, the state must develop a total maximum daily load (TMDL) of pollutants. A TMDL is the total amount of a pollutant that can be discharged into a water body without violating water quality standards. In the TMDL process, the pollutant amounts are allocated to various sources, such as point, non-point and natural. The 1996 303(d) list included over 600 water body segments that failed to meet water quality standards and required the development of 1,500 TMDLs.

The state is a party to the settlement of a lawsuit brought by Northwest Environmental Advocates on the state's failure to complete TMDLs for waters on the 303(d) list. In the settlement agreement, the state agreed to complete TMDLs on the 1996 303(d) list within

a 15-year schedule. If the state fails to develop TMDLs for waters on the 303(d) list or EPA disapproves the TMDLs, EPA must develop the TMDLs.

Summary of Substitute Bill: The Legislature recognizes the federal Clean Water Act requirement to conduct TMDLs and acknowledges the settlement of a lawsuit on this subject including the requirement to complete TMDLs on polluted waters within 15 years. The Legislature intends that water quality standards be achieved, the waters on the 303(d) list not grow in number, and that there be no further degradation of the state's water quality.

The Department of Ecology must: (1) implement the settlement agreement; (2) develop a plan to obtain public input on the development and implementation of TMDLs; and (3) publish the 303(d) list and a summary of each TMDL in the Washington State Register.

Substitute Bill Compared to Original Bill: The substitute expands public information planning to allow Ecology to establish or use advisory committees, adds a requirement for Ecology to publish a notice and summary for each TMDL in the Washington State Register, and makes technical corrections.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: The state should support the goal of attaining water quality standards by implementing the 15 year schedule in the settlement agreement.

Testimony Against: Concern was expressed about the intended role of "other pollution control programs" in relation to the development of TMDLs. The state does not have sufficient non-point source programs. The Governor's budget for TMDLs is not sufficient to meet requirements of the settlement agreement. Additional public participation is not necessary. TMDLs must also meet requirements of the Endangered Species Act.

Testified: Bruce Wishart, People for Puget Sound (pro); Nina Bell, Northwest Environmental Advocates (pro/con); Doug Levy, City of Everett (concerns); Scott Hazelgrove, Association of Washington Business (concerns); Megan White, Department of Ecology (pro).