

SENATE BILL REPORT

SSB 6781

As Passed Senate, February 15, 2000

Title: An act relating to dairy nutrients.

Brief Description: Modifying provisions concerning the management of dairy nutrients.

Sponsors: Senate Committee on Agriculture & Rural Economic Development (originally sponsored by Senators Rasmussen and Morton).

Brief History:

Committee Activity: Agriculture & Rural Economic Development: 1/31/2000, 2/2/2000 [DPS].

Passed Senate, 2/15/2000, 41-4.

Brief Summary of Bill

- The Dairy Nutrient Task Force is continued with additional members.
- Ecology must look for substantial potential— of discharge.
- All dairy related penalty money is paid to Dairy Waste Management Account.
- Plans must only comply with requirements in effect 7/1/98.
- OFM must recommend funding solutions.
- Technical assistance teams satisfy engineering requirements.
- Dairy waste— is changed to dairy nutrients—

SENATE COMMITTEE ON AGRICULTURE & RURAL ECONOMIC DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 6781 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rasmussen, Chair; T. Sheldon, Vice Chair; Gardner, Honeyford, Morton, Prentice, Snyder, Stevens and Swecker.

Staff: David Johnson (786-7754)

Background: The Department of Ecology currently administers a dairy nutrient management program established in 1993. The program regulates discharges to state waters from dairy farms. In 1998, the Dairy Nutrient Management Act enhanced the Dairy Nutrient Management Program to include specific goals and schedules, as well as penalties for noncompliance by set deadlines. The act also replaced most references to dairy waste— with dairy nutrients— which, it is felt, more accurately reflects the usefulness of this by-product of dairy operations.

Under the Dairy Nutrient Management Act of 1998, each dairy farm in the state is required to develop a dairy nutrient management plan by July 1, 2002, and to fully implement the plan by December 31, 2003. If dairy farms do not meet deadlines, an additional fine of \$100 per month per violation is to be assessed. These fines are in addition to any fines assessed for water quality violations.

The 1998 legislation included the formation of a Dairy Nutrient Advisory Committee. This committee was vetoed and the veto message directed the Department of Ecology to form an advisory committee. In 1999, a Dairy Nutrient Task Force that includes four legislative members was created to examine specified issues relating to the Dairy Nutrient Management Program. Authority for the task force expired on December 31, 1999. The task force has reported to the Legislature, as required, on the implementation of the Dairy Nutrient Management Program.

The task force's report identified several issues of concern and proposed action for each issue identified. It is felt that legislation is necessary to effectively address some of the issues identified by the task force.

Summary of Bill: All dairy farm related penalties for violations of Chapter 90.48 RCW, the Water Pollution Control Act, are deposited into the dairy waste management account.

The phrase dairy waste– is changed to dairy nutrient– in both places it appears in statute. Gender neutral changes are made where appropriate.

Findings are made that the dairy nutrient management standards in place when the current dairy nutrient management program was enacted were, and continue to be, rigorous and appropriate. Constantly changing requirements create uncertainty and drain resources unnecessarily. At the same time there should be a method to incorporate new dairy nutrient management standards.

To be approved, DNMPs must meet the requirements that existed on July 1, 1998. The State Conservation Commission may, after public hearing and comment, adopt new requirements for DNMPs from the Natural Resource Conservation Service. The new requirements become mandatory after a five-year phase-in period.

The Office of Financial Management, after consultation with the State Conservation Commission and local conservation districts, must develop recommendations to provide adequate funding for the dairy nutrient management program.

The recommendations must identify the need, if any, for additional funding for each of the following purposes:

- (a) to perform functions required by conservation districts and the State Conservation Commission;
- (b) to provide technical assistance for development of plans; and
- (c) for cost-share moneys for implementation of plans based on 50 percent of the eligible costs to be derived from public sources.

The recommendations must include the amount of funding required each fiscal year, assuming the deadlines established in the 1998 act are met. The recommendations must be submitted to the Legislature before December 20, 2000.

Findings are made that the design and implementation of dairy nutrient management systems are multi-skilled tasks, which include engineering and other knowledge to be done properly.

Work carried out by the technical assistance teams created under the dairy nutrient management laws complies with the requirements of Chapter 18.43 RCW, regulating engineering. Professional engineers need not have direct supervision over technicians. The authority is applicable retroactively to all dairy nutrient management plans.

The Dairy Nutrient Task Force is reestablished. In addition to the previous members of the task force, four members of the agency appointed advisory and oversight committee are added including: (1) a representative of shellfish growers (nonvoting); (2) a representative of local health districts (nonvoting); (3) the federal Natural Resource Conservation Service (nonvoting); and (4) the federal Environmental Protection Agency (nonvoting). A nonvoting representative of the Office of Financial Management is also added.

The task force is to meet at least three times per year, or more if necessary. The task force is to examine at least the following topics:

- (1) determine whether the necessary progress is being attained so the deadlines are achieved;
- (2) monitor the development of and review recommendations for adequate funding for the various components of the program;
- (3) successful incorporation of engineering services into the existing system of technical assistance for the design and construction of the dairy nutrient management plans;
- (4) resolution of the conflict between the state public records act and federal privacy laws in regards to release of information relating to dairy plans.

By December 20 of each year, the task force must provide recommendations to the agencies or to the Legislature in regards to implementation of the program. The task force continues in existence until June 30, 2004, which is six months after the final implementation deadline.

The Department of Ecology has the duty to identify existing or substantial potential- water quality problems when inspecting dairy farms, as it does under the Water Pollution Control Act.

Appropriation: None.

Fiscal Note: Requested on January 28, 2000.

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

Testimony For: This bill does a good job of compiling all of the other dairy nutrient bills, which gave effect to many of the issues the task force dealt with. The task force has done important and valuable work in helping to implement the Dairy Nutrient Management Program. The task force has an ongoing role in addressing a number of issues and should be continued. Funding should be recommended by OFM. Extensions of deadlines would hurt the dairy farmers who are making significant investments and efforts to accomplish all of this by the current deadlines. It will be helpful to include OFM on the task force. Asking the task force to specify what is a needed administrative change and what should be a legislative change is helpful and provides clear direction. Ecology currently enforces based on 90.48, substantial potential to pollute, not just simple potential.

Testimony Against: Some of the bill's items should continue to be addressed by the task force, rather than legislated. As new requirements arise, they should continue to be discussed and a five-year phase in period might be too long. Engineering issue can be worked out without legislation.

Testified: Dick Wallace, Ecology; Don Stuart, WA Assn. of Cons. Dists.; Chris Cheney, Dairy Fed.

House Amendment(s): The House amendment replaced the Senate bill with the provisions of the substitute House bill and an additional provision. The amendment establishes a Dairy Nutrient Management Task Force which, in addition to the membership under the Senate bill, includes representatives of the EPA, NRCS, and local health departments as voting members. The amendment directs the Department of Ecology to report on penalty money dispositions. The amendment directs OFM to provide funding recommendations for the program. Additionally, the amendment provides that the environmentalist representative on the task force will be appointed by a statewide organization representing environmental interests.

Additional House Amendment(s): The amendment replaced the three active dairy farmer members of the task force with four dairy industry representatives and added an emergency clause.