

HOUSE BILL REPORT

HB 3227

As Reported by House Committee On:

Environmental Health, Select
Appropriations Subcommittee on General Government & Audit Review

Title: An act relating to protecting Hood Canal by removing nitrates and phosphates from on-site sewage disposal systems and wastewater treatment plants.

Brief Description: Protecting the water quality in Hood Canal.

Sponsors: Representatives Eickmeyer, Sump, Chase, Quall, Hasegawa, Appleton, Simpson, Haigh, Wallace, Dickerson, Takko, Conway, Pedersen, Kagi, Armstrong, Priest, Walsh, Hinkle, Condotta, McCoy, Roberts, Morris, Hudgins, Rolfes, Lantz, Schual-Berke, Morrell, Campbell, Sells, Sullivan, Kenney and Linville.

Brief History:

Committee Activity:

Select Committee on Environmental Health: 1/29/08, 1/31/08 [DPS];
Appropriations Subcommittee on General Government & Audit Review: 2/5/08, 2/7/08
[DP2S(w/o sub ENVH)].

Brief Summary of Second Substitute Bill

- Requires that any new or retrofitted on-site sewage disposal systems installed after July 1, 2009, may not discharge to ground or surface waters more than 20 milligrams per liter of total nitrogen.
- Requires that any new or retrofitted wastewater treatment system installed after July 1, 2009, must use all known, available, and reasonable methods of nitrogen removal.
- Requires the Department of Health and the Department of Ecology to jointly report to the Legislature by December 1, 2008, regarding the impact of removing phosphates from the discharge of on-site sewage disposal systems and wastewater treatment systems in Aquatic Rehabilitation Zone One.

HOUSE SELECT COMMITTEE ON ENVIRONMENTAL HEALTH

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: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Campbell, Chair; Hudgins, Vice Chair; Sump, Ranking Minority Member; Chase, Hunt, Morrell, Newhouse and Wood.

Staff: Brad Avy (786-7289).

Background:

Hood Canal is a glacier-carved fjord approximately 60 miles in length with approximately 180 miles of shoreline. Portions of Hood Canal have had low dissolved oxygen concentrations for many years. The University of Washington recorded low dissolved oxygen concentrations in the 1950s. In recent years, low dissolved oxygen concentration conditions and significant fish kill events have been recorded on Hood Canal. Research and monitoring related to Hood Canal's low dissolved oxygen concentrations is underway to improve data on nitrogen loading from on-site septic systems, groundwater, and other sources in Hood Canal.

In 2005 authority was provided to establish Aquatic Rehabilitation Zones (ARZ) for areas whose surrounding marine water bodies pose serious environmental or public health concerns. The first ARZ, known as ARZ One, was created for the watersheds that drain into Hood Canal south of a line projected from Tala Point in Jefferson County to Foulweather Bluff in Kitsap County.

Summary of Substitute Bill:

For ARZ One, any new or retrofitted on-site sewage disposal systems installed after July 1, 2009 may not discharge to ground or surface waters more than 20 milligrams per liter (mg/L) of total nitrogen.

For ARZ One, any new or retrofitted wastewater treatment system installed after July 1, 2009, must use all known, available, and reasonable methods of nitrogen removal.

By December 1, 2008, the Department of Health (DOH) and the Department of Ecology (DOE) shall jointly report to the Legislature regarding the impact of removing phosphates from the discharge of on-site sewage disposal systems and wastewater treatment systems in ARZ One.

Substitute Bill Compared to Original Bill:

The substitute bill:

- Removes the specific requirement that any new or retrofitted on-site sewage disposal systems or wastewater treatment systems installed after July 1, 2009, must remove nitrates and phosphates to a level that at a minimum meets the DOE's water quality standards and does not adversely impact the health of Hood Canal.
- Adds the requirement that any new or retrofitted on-site sewage disposal systems installed after July 1, 2009, may not discharge to ground or surface waters more than 20 mg/L of total nitrogen.

- Adds the requirement that any new or retrofitted wastewater treatment system installed after July 1, 2009, must use all known, available, and reasonable methods of nitrogen removal.
- Adds the requirement that the DOH and the DOE shall jointly report to the Legislature by December 1, 2008, regarding the impact of removing phosphate from the discharge of on-site sewage disposal systems and wastewater treatment systems in ARZ One.

Appropriation: None.

Fiscal Note: Requested on January 25, 2008.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) Hood Canal takes a year or more to exchange water. The Hood Canal has been polluted for many years. Studies have been going on for three years concerned with what was causing a lack of dissolved oxygen and killing off wildlife in Hood Canal. Studies show that nitrogen is one of the causes of excess nutrients. Phytoplankton survives on nitrogen, warmth, and sunshine which leads to algae blooms. When this happens, the phytoplankton die and sink to the canal bottom and then deteriorate and burn up all the oxygen. The evidence shows that taking nitrates out of the water is one of the major steps in solving the problem that faces the Hood Canal. There is a need to look at new technologies to take nitrates out of the system. Other factors relate to deciduous trees. Alder trees collect nitrogen and then release nitrogen when they fall into the water. Nature's balance has been upset in Hood Canal. The canal can be restored back to basic health. The canal should be used not abused. Southern shorelines are urbanized. Nutrients humans produce are trapped and then released into the canal. For many years, sewage was just piped straight into the canal. Development of homes on small lots occurred with inadequate systems and not enough room. New systems provide a major step forward. The canal's immune system has been compromised with the loss of the geoduck clam. They can clean a lot of water. This bill is the first big step to clean up Hood Canal.

(In support of the substitute) The DOE would like to recognize Representative Eickmeyer for the passion he has exhibited for Hood Canal and the hard work and leadership that he has shown over the last few years. The DOE supports the substitute. There are several on-site technologies on the market now that can meet the nitrogen standards. There is a great cost to not cleaning up Hood Canal, to ourselves and future generations. The People for Puget Sound are in strong support of this legislation and want to compliment Representative Eickmeyer for his leadership. This is an issue that has been endlessly discussed and debated. The real issue has been that the DOH standards are based on human health standards and this is an environmental problem. There are some added costs. Six systems have already passed

federal standards for nitrogen treatment. Prices range from \$4,000 to \$10,000 in addition to the cost for traditional treatment.

(Concerns) There is concern about the number of septic systems that are out there that can meet this requirement. There is also concern about systems that are already meeting the new DOH standards of two years ago. There is a need to bring failing systems up to standards.

(Opposed) None.

Persons Testifying: (In support) Representative Eickmeyer, prime sponsor; and Yoshe Revelle.

(In support of the substitute) Melodie Selby, Department of Ecology; and Bruce Wishart, People for Puget Sound.

(Concerns) Jennifer Kunkel, Building Industry Association of Washington.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS SUBCOMMITTEE ON GENERAL GOVERNMENT & AUDIT REVIEW

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Select Committee on Environmental Health. Signed by 14 members: Representatives Linville, Chair; Ericks, Vice Chair; Armstrong, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Alexander, Blake, Chandler, Kretz, Lantz, Liias, Miloscia, Morris, Nelson and Van De Wege.

Staff: Alicia Dunkin (786-7178).

Summary of Recommendation of Committee On Appropriations Subcommittee on General Government & Audit Review Compared to Recommendation of Committee On Select Committee on Environmental Health:

A null and void clause was added, making the bill null and void unless funded in the budget.

Appropriation: None.

Fiscal Note: Requested on February 4, 2008.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) We have had a very good team of scientists evaluating Hood Canal and they came to the same conclusion of all the other world scientists, which is that nitrogen is very bad for marine waters. All new or retrofitted onsite septic systems have to address nitrogen - it is inevitable and we should get started. The Department of Ecology shared their assumptions

about the bill with the Departments of Health and Community, Trade and Economic Development and we don't think there is a fiscal impact to the bill because we can complete the tasks in this bill within existing resources.

(Opposed) None.

Persons Testifying: Melodie Selby, Washington Department of Ecology; and Bruce Wishart, People for Puget Sound.

Persons Signed In To Testify But Not Testifying: None.