

SENATE BILL REPORT

SB 6342

As Reported by Senate Committee On:
Environment, Energy & Technology, January 30, 2020
Ways & Means, February 10, 2020

Title: An act relating to chemical contaminants in drinking water.

Brief Description: Concerning chemical contaminants in drinking water.

Sponsors: Senators Dhingra, Das, Lovelett, Mullet, Stanford and Wilson, C.

Brief History:

Committee Activity: Environment, Energy & Technology: 1/30/20 [DPS-WM, DNP, w/oRec].
Ways & Means: 2/06/20, 2/10/20 [DP2S, DNP, w/oRec].

Brief Summary of Second Substitute Bill

- Requires the Department of Health to establish statewide maximum contaminant levels (MCLs) for PFAS chemicals or a state action level if there is insufficient information to develop an MCL.
- Requires the State Board of Health (SBOH) to adopt rules for PFAS chemicals by July 1, 2026.
- Requires the SBOH to require Group A Water Systems that exceed a state action level to require a recommendation that consumers use an alternate source of water.
- Requires certain Group B water systems to test for PFAS chemicals.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Majority Report: That Substitute Senate Bill No. 6342 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Carlyle, Chair; Lovelett, Vice Chair; Das, Hobbs, Lias, McCoy, Nguyen, Stanford and Wellman.

Minority Report: Do not pass.

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.

Signed by Senators Ericksen, Ranking Member; Fortunato, Assistant Ranking Member, Environment; Short.

Minority Report: That it be referred without recommendation.

Signed by Senators Sheldon, Assistant Ranking Member, Energy & Technology; Brown and Rivers.

Staff: Jan Odano (786-7486)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 6342 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Operating, Capital Lead; Mullet, Capital Budget Cabinet; Billig, Carlyle, Conway, Darneille, Dhingra, Hasegawa, Hunt, Keiser, Liias, Pedersen and Van De Wege.

Minority Report: Do not pass.

Signed by Senator Muzzall.

Minority Report: That it be referred without recommendation.

Signed by Senators Braun, Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Becker, Schoesler, Wagoner, Warnick and Wilson, L..

Staff: Travis Sugarman (786-7446)

Background: The Federal Safe Drinking Water Act (SDWA) ensures the quality of drinking water supplied by Group A public water systems, which serve at least 15 connections or 25 individuals. Under the SDWA, the Environmental Protection Agency (EPA) identifies drinking water contaminants to be regulated, sets standards for drinking water quality, and oversees the states, localities, and water suppliers who implement those standards. The SDWA requires water systems to take actions for protecting drinking water sources and to deliver water that does not exceed the maximum contaminant levels established by the EPA. The EPA may delegate SDWA responsibilities to states for direct oversight of drinking water standards and the operation of public water systems. State-adopted drinking water regulations must be at least as stringent as federal drinking water regulations. The Department of Health (DOH) implements the state's drinking water program mandated by the federal SDWA.

DOH or a local health jurisdiction (LHJ) administers requirements for Group B drinking water systems. SBOH adopts rules for Group B drinking water systems, which have less than 15 service connections and serve fewer than 25 people per day. In 2014, the SBOH adopted design and construction rules, reduced monitoring and testing requirements, eliminated most regulatory requirements for systems with fewer than five connections, and provided that LHJs may establish local ordinance that are at least as stringent as SBOH rules.

PFAS substances are a large and complex group of synthetic chemicals used for a variety of purposes including preventing cookware from sticking, making clothing and carpeting stain resistant, and fire fighting foam more effective. Concerns about the public health impacts of PFAS substances have arisen due to their widespread occurrence in the environment, people, and consumer products. PFAS substances do not readily degrade and the remaining amount in the environment and human body is currently unknown. Findings from research conducted by the National Institutes of Environmental Health (NIEHS) show possible links to adverse human health effects such as altered metabolism, reduced fetal growth, increased risk for obesity, and impacts to the immune system.

Summary of Bill (Second Substitute): DOH must establish statewide MCLs for PFAS. When developing MCLs, DOH must review MCLs adopted by other states as well as current peer-reviewed science and independent or government agency studies. The MCLs must be protective of public health including vulnerable subpopulations, and must be at least as restrictive as an MCL or health advisory developed by the EPA. DOH may adopt a more stringent MCL than the EPA if, after accounting for an adequate margin of safety to protect human health at all stages of life, it determines federal standards do not provide adequate protection.

By January 1, 2025, DOH must provide to SBOH recommendations to implement requirements for an MCL for PFAS chemicals for group A water systems. DOH must establish a SAL for a specific PFAS chemical when it finds there is insufficient information to develop an MCL that PFAS chemical. SBOH must adopt rules for PFAS substances MCL by July 1, 2026. SBOH must require group A water systems that exceed a SAL, adopted in rule, to recommend consumers use an alternate source of drinking water.

Beginning January 1, 2021, group B water systems, as determined by DOH through sampling results, identified as known or potential sources of contaminants that have the ability to impact the water system or data indicating that the water system is in proximity to group A water systems are contaminated with PFAS chemicals using an EPA or department approved method. DOH may work with LHJs to determine water systems at risk as well as testing and monitoring parameters. By June 1, 2022, DOH must review the test results and provide a report to the Legislature regarding the scope and scale of PFAS chemical contamination in the state, mitigation efforts, and costs to water systems and consumers. DOH is required when developing the report, to consult with drinking water systems that are mitigation for PFAS contamination.

DOH is authorized to develop a single maximum contaminant level or state action level for a PFAS chemical when it determines that it can serve as a proxy for other PFAS chemicals.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Second Substitute):

- Specifies that testing must be conducted using an EPA or department-approved method.
- Adds that the report to the Legislature must include a review of issues such as the scope and scale of PFAS chemical contamination in the state, mitigation efforts, and costs to water systems and consumers.

- Requires DOH to consult with drinking water systems that are mitigating for PFAS contamination.
- Authorizes DOH to develop a single maximum contaminant level or state action level for a PFAS chemical when it determines that it can serve as a proxy for other PFAS chemicals.

EFFECT OF CHANGES MADE BY ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE (First Substitute):

- Removes requirements for DOH to set a maximum contaminant level for 1,4 dioxane and chromium 6.
- Removes requirements for Group A water systems to provide testing results and for the SBOH to adopt rules for a state action level.
- Revises the public water systems—Group B—that must test, to those that have known or potential sources of contaminants, or are in proximity to Group A water systems contaminated with PFAS.
- Requires DOH to develop a state action level for PFAS chemicals if there is insufficient information to develop a maximum contaminant level.
- Requires the SBOH, through rule, to require water systems that have PFAS chemicals above the state action level to recommend consumers use an alternate source of water.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Draft Bill (Environment, Energy & Technology):
The committee recommended a different version of the bill than what was heard. PRO: There are still issues with chemicals known to be problematic. We should be able to rely on water that is not contaminated. Other states are taking action and we should too.

CON: We have concerns with a state developed SAL. We would prefer to see an MCL, which creates a definite standard to which to treat. The SAL that is being developed is much lower than the level found through testing under a federal program. Under the SAL we would have to continue monitoring, provide notice, and continue testing. Then we would have to take action, as determined by DOH. It is costly to upgrade and repair wells. We like MCLs whether adopted by the state or EPA, but the federal government seems to be dragging its feet. The federal process for an MCL includes the reduction in exposure to justify the costs.

OTHER: The Department of Health is committed to ensuring safe and reliable drinking water. The EPA has not been keeping up with establishing MCLs or reevaluating standards for protecting public health. We are working with the SBOH to develop a SAL, which will apply to 5 PFAS chemicals. We are assuming the state process for establishing an MCL will be similar to the federal process, which will require funding.

Persons Testifying (Environment, Energy & Technology): PRO: Senator Manka Dhingra, Prime Sponsor.

CON: Jeff Johnson, Regional Water Cooperative of Pierce County.

OTHER: Mike Means, Department of Health.

Persons Signed In To Testify But Not Testifying (Environment, Energy & Technology):
No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: We should be confident that the water coming out of our tap is safe. We know the EPA is not moving on the issue of chemicals in our water and we can no longer wait for them to protect the health of our children. There are other states going through this as well and I think there is opportunity to learn from them. The bill focuses on PFAS and provides the Department of Health tools to determine harmful levels.

OTHER: This is a significant issue for the state, public health, and drinking water. It likely has the capital budget squarely in its sights in terms of looking at what will be required of certain water systems if they have PFAS in their system. Issues to sort out between MCL and SAL and the ability to tap into MCTA funding.

Persons Testifying (Ways & Means): PRO: Senator Manka Dhingra, Prime Sponsor.

OTHER: Bill Clarke, Washington PUD Association, Pierce Water Cooperative.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.