

SENATE BILL REPORT

SB 6390

As of February 8, 2018

Title: An act relating to integration of reclaimed water, water system planning, and groundwater source protection.

Brief Description: Concerning the integration of reclaimed water, water system planning, and groundwater source protection.

Sponsors: Senators Wellman and Honeyford.

Brief History:

Committee Activity: Agriculture, Water, Natural Resources & Parks: 1/29/18.

Brief Summary of Bill

- Requires a reclaimed water permit applicant or permittee to enter into a written agreement with a Group A public water system before the applicant or permittee may provide or use reclaimed water within the service area of the Group A public water system.
- Requires that the written agreement between the reclaimed water permit applicant or permittee and the Group A public water system address certain issues, including protection of groundwater quality and identification of the areas in which reclaimed water will be provided.
- Establishes a dispute process in the event the reclaimed water permit applicant or permittee and the Group A public water system are not able to reach agreement.

SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

Staff: Karen Epps (786-7424)

Background: Reclaimed Water. Reclaimed water is water derived from a wastewater treatment system that has been treated in order to be suitable for a beneficial use or a controlled use that otherwise would not occur. Reclaimed water may be used for a variety of nonpotable water purposes including irrigation, agricultural uses, industrial and commercial

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uses, stream flow augmentation, dust control, fire suppression, surface percolation, and discharge into constructed wetlands.

A person proposing to generate reclaimed water for certain specified uses must obtain a permit from either the Department of Ecology (Ecology) or the Department of Health (DOH), depending on the proposed use of the reclaimed water, prior to distribution or use of that water. The permittee may then distribute and use the water, subject to the provisions in the permit. The permit must include provisions that protect human health and the environment.

Public Water Systems. More than 6.2 million Washington residents receive their drinking water from Group A or Group B public water systems, representing roughly 85 percent of the state's population. Group A water systems either have 15 or more service connections, regularly serve 25 or more people 60 or more days per year, or serve 1000 or more people for two or more consecutive days. Group B water systems serve fewer than 15 connections and fewer than 25 people per day.

Some public water systems must submit a water system plan for review and approval by DOH. These public water systems include the following:

- systems having 1000 or more services;
- systems required to develop water system plans under the Public Water System Coordination Act of 1977;
- new systems or expanding systems; and
- other specified systems.

The water system plans must include specific elements, including system descriptions, basic planning data, demand forecasts, and source water protection provisions, for a prospective planning period of 20 or more years.

Summary of Bill: Before a reclaimed water permit applicant or permittee may provide or use reclaimed water at a location within the service area of any Group A public water system, the applicant or permittee must enter into a written agreement with the operator of the Group A public water system. The agreement must address certain matters, including:

- identification of areas within the Group A public water system service area in which reclaimed water may be provided;
- facilities to treat and deliver reclaimed water within the service area;
- protection of water resources;
- rates and charges for reclaimed water;
- potential financial impacts to public water system ratepayers and bondholders; and
- coordination and integration of proposed reclaimed water use into the Group A public water system comprehensive planning process.

Before reclaimed water may be stored, delivered, or used at a location in hydrologic connection to an aquifer or groundwater source covered by a critical aquifer recharge area, a wellhead protection area, or a sole source aquifer area, the permit applicant or permittee must enter into a written agreement with the affected Group A public water system that protects groundwater quality.

A Group A public water system may waive either or both of the agreements described above for a period of time not to exceed the term of the reclaimed water permit. An existing and permitted beneficial use of reclaimed water in operation before the effective date of the act is not required to obtain the written agreements described above until the expiration or renewal of the permit for the existing beneficial use. Any expansion or increase of an existing beneficial use of reclaimed water is subject to the requirement to obtain the written agreements described above.

If a permit applicant or permittee and a Group A public water system are unable to reach agreement on the written agreements described above, the permit applicant or permittee or a Group A public water system may petition the secretary of DOH who will issue a decision. Before either party may submit a petition, the parties must have first engaged in good faith efforts to negotiate a written agreement and to resolve the issues through mediation or other facilitated negotiations. Upon request of DOH, the parties must reimburse the costs of responding to the petition and issuing a decision to DOH.

Appropriation: None.

Fiscal Note: Not requested.

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: PRO: Ecology's new reclaimed water rule does not require reclaimed water purveyors to work with existing water utilities and collaborate on future planning. There needs to be a balance between advancing the use of reclaimed water and protecting drinking water to ensure safe, clean drinking water. Reclaimed water providers want to provide reclaimed water to areas that water utilities are already serving, resulting in a revenue loss to these utilities. This bill is designed to protect rate payers. Having an agreement between the generator of reclaimed water and the purveyor ensures that rate payers are protected and environmental impacts are considered. This bill encourages local engagement and provides needed balance by giving water utilities a small equity stake in where and when reclaimed water projects are pursued.

CON: Reclaimed water can and should be used innovatively to address instream flow in water short basins, recycle valuable nutrients, improve water quality, and conserve municipal water supplies. For the last 20 years, reclaimed water purveyors have tried to work collaboratively. This bill goes too far because it does not just require consultation and coordination, it tips the balance entirely by effectively giving drinking water facilities veto power over reclaimed water plans.

OTHER: The requirement for a reclaimed water project to obtain agreement prior to receiving a permit would create uncertainty for both new and existing reclaimed water projects, potentially discouraging advances in the use of reclaimed water. There is also concern about the role of DOH as a decision-maker in the event that the parties cannot agree as these should be local decisions. Ecology's new rules strike the balance to encourage reclaimed water use while protecting public health and the environment. The new rule has

requirements for coordination and collaboration between water suppliers and reclaimed water generators during the planning and design phases of a facility.

Persons Testifying: PRO: Senator Lisa Wellman, Prime Sponsor; Diana Carlen, Cascade Water Alliance; Angela Birney, Council President, City of Redmond; Lloyd Warren, President, Sammamish Plateau Water Commission; Adam Gravley, Cascade Water Alliance; Bill Clarke, Washington PUD Association.

CON: April Putney, King County; Mike Wolanek, citizen.

OTHER: Garin Schrieve, Washington Department of Health; Heather Bartlett, Washington Department of Ecology.

Persons Signed In To Testify But Not Testifying: No one.