

SENATE BILL REPORT

ESSB 6278

As Passed Senate, February 17, 2020

Title: An act relating to water withdrawals for commercial bottled water production.

Brief Description: Concerning water withdrawals for commercial bottled water production.

Sponsors: Senate Committee on Agriculture, Water, Natural Resources & Parks (originally sponsored by Senators Carlyle, Braun, Van De Wege, Rolfes, Nguyen, Saldaña, Das, Billig and Hasegawa).

Brief History:

Committee Activity: Agriculture, Water, Natural Resources & Parks: 1/23/20, 2/06/20 [DPS, DNP].

Floor Activity:

Passed Senate: 2/17/20, 28-20.

Brief Summary of Engrossed First Substitute Bill

- Provides that, for new water right applications received after January 1, 2019, any use of water for the commercial production of bottled water is deemed to be detrimental to the public welfare and the public interest.
- Establishes that this limitation does not apply to an application from a municipal water supplier or if there is a state of emergency, drought order, or public health emergency.

SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

Majority Report: That Substitute Senate Bill No. 6278 be substituted therefor, and the substitute bill do pass.

Signed by Senators Van De Wege, Chair; Salomon, Vice Chair; McCoy and Rolfes.

Minority Report: Do not pass.

Signed by Senators Warnick, Ranking Member; Honeyford and Short.

Staff: Karen Epps (786-7424)

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.

Background: Washington operates under a water right permit system. With certain exceptions, new rights to use surface or ground water, or to establish reservoir and storage projects, must be established according to the permit system. A person seeking a new water right files an application containing certain identifying information with the Department of Ecology (Ecology). Ecology must investigate the application and determine what water, if any, is available for appropriation. Ecology must consider a four-part test when deciding whether to issue the requested right:

- whether water is available;
- whether a beneficial use of water would be made;
- whether granting the right would impair existing rights; and
- whether the proposed use would detrimentally affect the public interest.

If an application passes this test, Ecology issues a permit establishing a time table for constructing the infrastructure to access the water and for putting water to beneficial use. When the conditions of the permit are satisfied, Ecology issues a water right certificate.

Summary of Engrossed First Substitute Bill: When Ecology is investigating a new water right application received after January 1, 2019, any use of water for the commercial production of bottled water is deemed to be detrimental to the public welfare and the public interest. This limitation does not apply to an application from a municipal water supplier. Additionally, this limitation does not apply if there is a:

- state of emergency proclaimed;
- drought order issued; or
- public health emergency.

Bottled water includes all water labeled or marketed for sale as "water" in containers including plastic bottles. Bottled water also includes the category of bottled waters known as "enhanced waters," or "spring water" but does not include any other product made from water not marketed as "water."

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 on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Pumping water out of the ground, putting it in plastic bottles, and exporting it out of Washington is not in the public interest. This bill addresses a statewide issue. Bottling companies do not produce water, they produce plastic bottles and hazardous waste. There is support for this bill because there is concern about the burden of plastics in terms of plastic water bottles and the water that is in plastic bottles. Washington water needs to be saved for fish, irrigation, recreation, and our tap water. Water is a basic necessity for any community to thrive and there is concern about impacts to folks who access water through individual wells if there were to be a water bottling plant built in a rural community. Giving away 400 gallons of water a minute is going to affect

growth in the future. Water bottling facilities are bad business based on water usage per job. Water bottling companies will only be back for more water. There is concern about siting water bottling plants in rural areas where there is a threat that they will impact both instream and out of stream uses. The bill is not a ban on bottling plants and does not prohibit siting of these facilities in urban areas using municipal water, but rather that it is not in the public interest to issue a water right in a rural community. Salmon need all the water they can get in the Cowlitz basin and extracting water from an aquifer that is adjacent to salmon-bearing streams is egregious. Drought conditions are going to continue to impact communities in Washington and there is a need to keep water pure and keep it at home.

CON: The bottled water industry stands ready to work towards solutions around the issue of plastic. Water bottling companies support the public interest by providing good jobs to Washington residents, increasing the state's export economy, supporting community organizations. This bill will impact companies currently operating in Washington that may need to apply for additional permits in the future. There is concern about this bill using the water code to single out a specific use and a specific product. This bill creates a dual standard of public welfare and public interest that does not appear elsewhere in the water code. There is concern that a new application for a municipal entity would not be able to use that water for bottling.

OTHER: There is broad and uniform support for this legislation which protects our wells, farms, forests, fisheries, and small businesses. This bill creates a simple and effective solution. Water bottling companies support groundwater management policies, laws, and regulations that are comprehensive, science-based, multi-jurisdictional and treat all users equitably. Sound water management policies balance the rights of current users against the future needs to provide a sustainable resource.

Persons Testifying: PRO: Senator Reuven Carlyle, Prime Sponsor; Wes McMahan, Lewis County Water Alliance; Craig Jasmer, Lewis County Water Alliance; Jasmine Jorgensen, Lewis County Water Alliance; Don Welever, Lewis County Water Alliance; Aurora del Val, Local Water Alliance/Former Campaign Director; Heather Trim, Zero Waste Washington; Mike Iyall, Cowlitz Indian Tribe; Bruce Wishart, CELP / Sierra Club; Gregory King, Friends of the Cowlitz; Nicholianne Walters, citizen; Joshua Hail, citizen; Teri Graves, citizen.

CON: Brad Boswell, Washington Beverage Association; Andrew Haring, Talking Rain Beverage Company; Kathleen Collins, Washington Water Policy Alliance.

OTHER: Zora DeGrandpre, citizen; Mark Johnson, Washington Retail Association+.

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