

HOUSE BILL REPORT

HB 1365

As Reported by House Committee On:
Environment & Energy

Title: An act relating to improving Puget Sound water quality.

Brief Description: Improving Puget Sound water quality.

Sponsors: Representatives Dye and Barkis.

Brief History:

Committee Activity:

Environment & Energy: 2/14/23, 2/16/23 [DPS].

Brief Summary of Substitute Bill

- Requires operators of municipal wastewater systems to report annually on each discharge of untreated sewage, partially treated sewage, or mixtures of untreated stormwater and sewage into the Puget Sound.
- Requires the Department of Ecology (Ecology) to produce and publicize an annual summary report of these discharges.
- Directs Ecology to continue providing technical and financial assistance to municipal wastewater treatment facilities, and to make annual grants with available appropriated funds to reduce nutrient discharges into the Puget Sound.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Doglio, Chair; Dye, Ranking Minority Member; Ybarra, Assistant Ranking Minority Member; Abbarno, Barnard, Berry, Couture, Duerr, Goehner, Lekanoff, Ramel, Slatter and Street.

Minority Report: Without recommendation. Signed by 2 members: Representatives

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Mena, Vice Chair; Fey.

Staff: Megan McPhaden (786-7114).

Background:

Puget Sound Restoration.

The Puget Sound includes all salt waters of the State of Washington inside the boundary between Washington and British Columbia, salt waters east of the Pacific Ocean and the Strait of Juan de Fuca, and the rivers and streams draining to Puget Sound. The Puget Sound Partnership was established as a state agency in 2007 to oversee the restoration of the environmental health of the Puget Sound by 2020. According to the Puget Sound Partnership's State of the Sound Report from 2021, very few indicators met their 2020 targets and marine water quality continues to decline.

Puget Sound Nutrient General Permit.

The federal Clean Water Act (CWA) sets a national goal to restore and maintain the chemical, physical, and biological integrity of the nation's waters and to eliminate pollutant discharges into navigable waters. The CWA sets effluent limitations for discharges of pollutants to navigable waters. The Department of Ecology (Ecology) has received delegated authority from the United States Environmental Protection Agency (EPA) to carry out the CWA in Washington. As part of this responsibility, Ecology issues required National Pollutant Discharge Elimination System (NPDES) wastewater discharge permits, except for federally owned facilities and for permits on tribal lands. The NPDES permits regulate discharges to surface water from commercial industry or publicly owned treatment works, also referred to as municipal wastewater treatment facilities. Categories of NPDES general permits include Nutrient General Permits, Municipal Stormwater General Permits, and Water Treatment Plant General Permits.

Ecology issued a first-of-its-kind five-year Puget Sound Nutrient General Permit effective on January 1, 2022. According to Ecology, this permit is intended to address excess nitrogen, which is the main pollutant causing low oxygen levels in the Puget Sound and can lead to fish mortality and impact other marine life. This permit applies to 58 wastewater treatment plants operating in 42 municipalities, and requires these covered municipal wastewater treatment plants to:

- monitor and report on discharges;
- implement a nitrogen optimization plan to evaluate strategies for maximizing nitrogen removal; and
- conduct a nutrient reduction evaluation, which includes planning for future facility upgrades.

Puget Sound Nutrient Reduction Grants Program.

The 2021-23 Capital Budget provided \$9 million for a Puget Sound Nutrient Reduction Grant Program administered by Ecology. Ecology must use the criteria of a facility's

location, age, and immediacy of need to avoid a higher magnitude of contamination as criteria for evaluating and prioritizing the grants.

303(d) List.

Section 303(d) of the CWA requires states to prepare a list for EPA approval every two years of the specific water bodies or water body segments that do not meet state water quality standards, also known as the 303(d) list. Ecology collected data on water quality in 2022 and plans to evaluate the data and release a draft list of impaired waters for review in early 2024. A water body can be removed from the 303(d) list when the state develops a required Total Maximum Daily Load (TMDL), a water quality improvement process, to help clean it up, and the TMDL is approved by the EPA.

Summary of Substitute Bill:

Reporting Discharges of Untreated Sewage and Stormwater.

Operators of municipal wastewater systems that discharge untreated sewage, partially treated sewage, or mixtures of untreated stormwater and sewage into the Puget Sound watershed must submit a report to the Department of Ecology (Ecology) by February 1 every year. This report must summarize discharges that occurred during the previous calendar year. The report must identify each discharge's location, estimated volume, and measured impacts to coliform levels and other water quality metrics. The report must also identify any resulting beach closures or other impacts to recreational uses from each discharge.

By July 1 of each year Ecology must use the reports from municipal wastewater systems to complete a summary report. The summary report must include the number of water body segments on the 303(d) list compared to the total number of water body segments in the Puget Sound, and analyze how much the untreated discharges contribute to a water body being impaired and on the 303(d) list. Ecology must provide the report to a diverse group of news media outlets in the state, post the report on its website, and submit the report to the appropriate committees of the Legislature.

Technical and Financial Assistance.

Ecology must continue to provide technical and financial assistance to local governments and other municipal wastewater treatment operators to reduce their nutrient discharges into Puget Sound. The financial assistance must include: (1) identifying funding opportunities; (2) accepting donations, seeking and applying for grants and federal funds; and (3) assisting operators with grant and loan opportunities. Ecology must continue to collaborate with the Puget Sound Partnership and other state agencies.

Grants for Municipal Wastewater Treatment Facilities to Reduce Nutrient Discharges.

Ecology is responsible for making grants each year for municipal wastewater nutrient discharge reduction projects, within funds appropriated for this purpose. If there is not

enough funding appropriated to fully fund all projects proposed by municipal wastewater treatment operators, Ecology must distribute funds by prioritizing projects that are: (1) the most cost-effective at reducing nutrients; and (2) capable of most quickly achieving nutrient reductions.

Substitute Bill Compared to Original Bill:

As compared to the original bill, the substitute bill:

- removes the new Office of Puget Sound Water Quality and instead directs the Department of Ecology (Ecology) to carry out the work authorized in the bill under its existing authorities;
- clarifies that Ecology must provide grants within funds appropriated for the purpose of municipal wastewater nutrient discharge reduction projects, and removes reference to Climate Commitment Act revenues and private funds;
- clarifies that the reporting by operators of municipal wastewater systems must include discharges of partially treated sewage as well as untreated sewage, and that this reporting is in addition to the required reporting under individual National Pollutant Discharge Elimination System permits; and
- directs Ecology to share its summary report with a diverse group of news media outlets, instead of major news media outlets.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 16, 2023.

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

Staff Summary of Public Testimony:

(In support) We need to reorganize and reprioritize the approach to Puget Sound's water quality. Many of the state's waters are listed as impaired and need a clean-up plan. The Legislature intended in 2007 for the Puget Sound to be restored by 2020, but the Puget Sound Partnership's State of the Sound report found that every water quality performance measure was below the 2020 target. Untreated discharges from municipal wastewater treatment plants are the biggest known issue and can be addressed with resources that are now available. For example, the Climate Commitment Act (CCA) resources could be used to reduce pollution and reduce the burden on sewer and water ratepayers. The Puget Sound is of national importance, and we need to allocate state resources to match the problem rather than putting the problem on the backs of ratepayers. Over half of the state's population is covered by facilities that discharge into the Puget Sound. Urbanization has impacted the watershed and the infrastructure that supports this urbanization is inadequate to treat wastewater.

(Opposed) None.

(Other) There is support for the intent to increase water quality investments, but there are existing programs that reduce pollution in Puget Sound, including grant and loan programs that received additional federal funds. We agree with the intent of Section 2 to make information on when sewage spills occur more available to the public. These plants are already required to report any unpermitted discharges but compiling them into a single accessible public report would improve transparency. In Section 3, creating an Office of Puget Sound Water Quality creates another layer of government and is redundant because Ecology already does much of this work, so this is duplicative with undefined benefits. There is a concern with referencing CCA funding because other funding sources are more appropriate and the CCA funding should address carbon emissions and support frontline communities. Wastewater treatment plants contribute to accidental releases of sewage as well as create problems related to treated wastewater.

Persons Testifying: (In support) Representative Mary Dye, prime sponsor.

(Other) Vince McGowan, Department of Ecology; Darcy Nonemacher, Washington Conservation Action; and Don Gourlie, Puget Sound Partnership.

Persons Signed In To Testify But Not Testifying: None.