

# SENATE BILL REPORT

## HB 2074

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As of February 12, 2024

**Title:** An act relating to limiting the application of certain civil penalties to protect landowners from incurring penalties based on the actions of the landowner's lessee.

**Brief Description:** Limiting the application of certain civil penalties to protect landowners from incurring penalties based on the actions of the landowner's lessee.

**Sponsors:** Representatives Dye, Dent, Jacobsen, Graham and Sandlin.

**Brief History:** Passed House: 2/7/24, 96-0.

**Committee Activity:** Agriculture, Water, Natural Resources & Parks: 2/15/24.

### Brief Summary of Bill

- Prohibits the Department of Ecology (Ecology) from levying a civil penalty against a landowner for a violation of the water code if the actions of the landowner's lessee are the basis for the violation.
- Establishes that, in such cases, Ecology may levy the civil penalty against the lessee.

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## SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

**Staff:** Karen Epps (786-7424)

**Background:** The water code specifies a sequence of enforcement measures the Department of Ecology (Ecology) must follow to achieve compliance with the state's water laws and rules. Ecology must first prepare and distribute technical and educational information to the general public to assist the public to comply with water rights and water law requirements. When it determines a violation has occurred or is about to occur, Ecology must first attempt to achieve voluntary compliance. If this is not successful, Ecology issues

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a notice of violation or a formal administrative order or assesses penalties unless noncompliance is corrected expeditiously or Ecology determines no impairment or harm has occurred. Ecology may take immediate action if in its opinion the nature of the violation is causing harm to other water rights or public resources.

Ecology may levy civil penalties of ranging from \$100 to \$5,000 per day for violation of the surface and ground water, minimum water flows and levels, and water supply facilities statutes. In determining the amount of the penalty, Ecology must consider the seriousness of the violation, whether the violation is repeated or continuous after notice is given of the violation, and whether any damage has occurred to the health or property of other persons. In situations involving the waste of water—a misdemeanor, Ecology may alternatively follow the sequence of enforcement actions specified in the water code.

**Summary of Bill:** Ecology may not levy a civil penalty against a landowner if the actions of the landowner's lessee are the basis for the violation. In such cases, Ecology may levy the civil penalty against the lessee.

**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.