

HOUSE BILL REPORT

HB 1888

As Reported by House Committee On:
Agriculture & Natural Resources

Title: An act relating to modifying the public notification requirements for wastewater discharge permits.

Brief Description: Changing the public notification requirements with respect to wastewater discharge permits.

Sponsors: Representatives Linville and Schoesler; by request of Department of Ecology.

Brief History:

Committee Activity:

Agriculture & Natural Resources: 2/25/03, 3/5/03 [DPS].

Brief Summary of Substitute Bill

- Requires the Department of Ecology to notify interested parties and the public of applications for wastewater discharge permits.
- Allows the use of methods other than newspaper publication for public notice of wastewater permit applications.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Linville, Chair; Rockefeller, Vice Chair; Schoesler, Ranking Minority Member; Eickmeyer, Grant, Hunt, McDermott, Quall and Sump.

Minority Report: Do not pass. Signed by 4 members: Representatives Holmquist, Assistant Ranking Minority Member; Kristiansen, Assistant Ranking Minority Member; Chandler and Orcutt.

Staff: Derek Green (786-5793); Caroleen Dineen (786-7156).

Background:

Wastewater discharge permits place limits on the quantity and concentrations of

contaminants that may be discharged into surface or ground waters or publicly-owned sewage systems. Permits may require wastewater treatment or impose operating or other conditions, including monitoring, reporting, and spill prevention planning.

The Department of Ecology (DOE) administers wastewater discharge permits under both state and federal law. Under the federal Clean Water Act, permits known as National Pollutant Discharge Elimination System (NPDES) permits are required for anyone who discharges wastewater to surface waters or who has a significant potential to impact surface waters. The United States Environmental Protection Agency has delegated the administration of NPDES permits to the DOE. The DOE also administers state permits, which are required for commercial and industrial operations that discharge wastewater into ground or to publicly-owned treatment plants and municipal operations discharging wastewater to ground.

In order to receive a wastewater discharge permit, an applicant must first file an application with the DOE. The applicant also must publish notice of the application twice in a newspaper of general circulation within the county in which the proposed disposal of waste material is planned. The DOE is required to notify other agencies about the application and to allow public comments on the applications by interested parties. After allowing for public comments, the DOE must evaluate the application and determine whether issuance of a permit would result in pollution in violation of public policy.

Summary of Substitute Bill:

The procedure for providing public notice of wastewater discharge permit applications is amended. In a manner reasonably calculated to give actual notice to affected parties, the Department of Ecology (DOE) is required to provide public notice of the application. The DOE also is required to provide public notice and an opportunity to comment on proposed or draft permits or permit denials. The DOE may provide notice by electronic mail, posting on the DOE's internet site, publication in newspapers, press releases, mailings and other information media. The DOE must include publication in local newspapers if the DOE determines that newspapers are the most appropriate means of providing public notice. The DOE must also provide pertinent information to appropriate state agencies.

If the DOE provides public notice in a manner other than by posting on the DOE's internet website, the DOE must also post permit applications and permit facts on the DOE's website to the extent practical. The DOE is required to maintain a list of interested persons and notify them by electronic distribution or regular mail of the DOE's actions related to the applications.

Substitute Bill Compared to Original Bill:

The substitute requires the DOE to provide notice to appropriate state agencies, rather than potentially affected state agencies. The substitute also requires the DOE to use local newspapers as a means of providing public notice when the DOE determines that publication is the most appropriate means of providing notice. In addition, the substitute requires the DOE to post permit applications and permit facts on the DOE's internet website when practical. The substitute modifies the requirement that public notice include a statement that persons may comment on an application or proposed permit action, eliminating the reference to proposed permit actions and restoring the requirement that persons may submit their views within 30 days of publication. The statement that the DOE provide a minimum of 30 days to comment on proposed draft permits or permit denials is eliminated.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: (Original bill) Publishing legal notices in newspapers is often not the most effective method for providing notice, and it can be expensive. Applicants often pay more for the cost of publishing notices than for the actual permit. The DOE is already involved with the notification process. Shifting the burden of providing notice to the DOE is a positive step and will help interested parties be more informed about the process. This bill brings the state requirements more in line with federal requirements.

Testimony Against: (Original bill) Local newspapers are connected to local issues and ensure that the communities most likely to be affected by a permit have notice. Publication in local newspapers provides for constructive notice that can be supported in court through an affidavit process. Notice by other methods may not include this feature.

(With concerns on original bill) Although changing technology increases the need to allow for different methods to provide notice, a concern exists that this bill will reduce the requirements of notice. Public notice should include more information than is required under this bill and should allow for a greater time frame for interested parties to respond.

Testified: (In support of original bill) Melodie Selby, Department of Ecology; and Kris Holm, Association of Washington Business.

(Opposed) Rowland Thompson, Allied Daily Newspapers.

(With concerns on original bill) Bruce Wishart, People for Puget Sound.

