

# HOUSE BILL REPORT

## HB 2584

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**As Reported by House Committee On:**

Agriculture & Natural Resources  
Appropriations Subcommittee on General Government & Audit Review

**Title:** An act relating to rainwater collection facilities.

**Brief Description:** Regarding rainwater collection facilities.

**Sponsors:** Representatives McCoy, O'Brien, Lantz, Linville, VanDeWege, Appleton, Moeller, Morrell, Dunshee, Sells, Hunt, Roberts, McIntire, Goodman, Rolfes, Chase and Loomis.

**Brief History:**

**Committee Activity:**

Agriculture & Natural Resources: 1/23/08, 2/5/08 [DPS];

Appropriations Subcommittee on General Government & Audit Review: 2/7/08[DP2S(w/o sub AGNR)].

**Brief Summary of Second Substitute Bill**

- Requires the Department of Ecology (DOE) to adopt rules by June 30, 2009, that delineate storage thresholds that qualify for a permit exemption for rain harvesting.
- Specifies that a water right does not result from the harvesting of rainwater.
- Authorizes the DOE to issue general permits that can address conditions for specific geographic areas under which rainwater harvesting systems may be constructed and operated.
- Allows any person collecting and using rainwater before the effective date of this legislation to continue to do so without obtaining a permit.

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### HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

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*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.*

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Blake, Chair; Van De Wege, Vice Chair; Eickmeyer, Lantz, Loomis, McCoy and Nelson.

**Minority Report:** Do not pass. Signed by 6 members: Representatives Kretz, Ranking Minority Member; Warnick, Assistant Ranking Minority Member; Grant, Kristiansen, Newhouse and Orcutt.

**Staff:** Jaclyn Ford (786-7339).

**Background:**

The Department of Ecology (DOE) permits the appropriation of water for beneficial use. Building ditches, canals, or other construction projects requires a permit from the DOE.

Reservoir permits, also known as secondary permits, are required for the collection of either surface or underground water for use as part of an underground artificial storage project. Reservoir permits do not include facilities that capture and reuse return flow from irrigation operations, or small lined irrigation impoundments less than 10 acre feet in volume.

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**Summary of Substitute Bill:**

The owner of a rainwater harvesting system designed to capture, store, and use rainwater runoff from roofs, paved areas, or other artificial surfaces is exempt from any permit requirements if the water is put to use on the same property where it was harvested and the harvesting, storage, and use complies with all DOE rules. The DOE will adopt rules by June 30, 2009, that delineate storage thresholds that qualify for the permit exemption. The DOE is also required to conduct a scientific study to substantiate all thresholds and permit specifications.

The DOE will issue general permits that may address specific geographic areas. They may also specify conditions under which rainwater harvesting systems may be constructed and operated in order to protect existing water rights and to prevent harm, such as reduced instream flows or significant reductions in flow levels to existing streams or water bodies.

Rainwater harvested, stored, and used does not result in a water right.

All people collecting and using rainwater before the effective date of the legislation may continue to do so without obtaining a permit. After the effective date of this legislation, all new rainwater harvesting systems must comply with the final rules or general permits.

**Substitute Bill Compared to Original Bill:**

In this bill the DOE will adopt rules by June 30, 2009, that delineate storage thresholds that qualify for the permit exemption. Also, the owner of a rainwater harvesting system designed to capture, store, and use rainwater runoff from roofs, paved areas, or other artificial surfaces is exempt from permit requirements if the water is put to use on the same property where it

was harvested and it meets the exemption threshold established by rule by the DOE. In this bill, the DOE will issue general permits that can address conditions for specific geographic areas under which rainwater harvesting systems may be constructed and operated. In this bill, the DOE is required to conduct a scientific study to substantiate all thresholds and permit specifications. Any persons collecting and using rainwater before the effective date of this legislation may continue to do so without obtaining a permit and after the effective date of this legislation. All new rainwater harvesting systems must comply with the final rules or general permits.

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**Appropriation:** None.

**Fiscal Note:** Available. A new fiscal note has been requested on the substitute bill on February 6, 2008.

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

**Staff Summary of Public Testimony:**

(In support) There was vast stakeholder participation in the creation of this current legislation. Five thousand gallons is the size of a residential swimming pool; people will be exempt from a permit for a swimming pool size catchment to refill when it rains.

(With concerns) The impact is unknown on the groundwater recharge. This bill would discourage water storage and be adverse to LEED buildings. It seems as though Seattle gets different rules than eastern Washington. Five thousand gallons is a low number. Water capture is negligible on the environment. It would be easier to grandfather in all existing systems rather than make them comply with new rules. This bill expands opportunity for people. This may have unintended consequences, it would be better to have the exemption at 3,000 gallons. Irrigation of yards and small gardens is 90 percent consumptive and does not recharge the aquifer.

(Opposed) The bill should allow for collection outside of non-permeable surfaces. Rulemaking and permitting at the DOE is too slow. The DOE already is making rules, so they already have the authority to do what is prescribed in the bill. This should be in a whole new section not in the water code.

**Persons Testifying:** (In support) Representative McCoy, prime sponsor; Ken Slattery, Department of Ecology; Ed Field, Washington Cattle Feeders; Bruce Wishart, People for Puget Sound; and Terri Hotvedt, American Society of Landscape Architects.

(With concerns) Chris McCabe, Association of Washington Business; Sue Gunn and Michael Meyer, Center for Environmental Law and Policy; Stan Bowman, American Institute of Architects; Darcy Nonemacher, American Rivers; and Dawn Vyvyan, Yakima Nation.

(Opposed) Scott Hazelgrove, Cadman Inc.; and Kathleen Collins, Washington Water Policy Alliance.

**Persons Signed In To Testify But Not Testifying:** None.

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## HOUSE COMMITTEE ON APPROPRIATIONS SUBCOMMITTEE ON GENERAL GOVERNMENT & AUDIT REVIEW

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Agriculture & Natural Resources. Signed by 8 members: Representatives Linville, Chair; Ericks, Vice Chair; Blake, Lantz, Lias, Miloscia, Nelson and Van De Wege.

**Minority Report:** Do not pass. Signed by 6 members: Representatives Armstrong, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Alexander, Chandler, Kretz and Morris.

**Staff:** Alicia Dunkin (786-7178).

### **Summary of Recommendation of Committee On Appropriations Subcommittee on General Government & Audit Review Compared to Recommendation of Committee On Agriculture & Natural Resources:**

A null and void clause was added, making the bill null and void unless funded in the budget.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Second Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed. However, the bill is null and void unless funded in the budget.

### **Staff Summary of Public Testimony:**

(In support) This bill has been around a long time. We came a long way through this process; I tried rain barrels only and no one was happy and I tried doing more and no one was happy. The Department of Ecology (DOE) is already in rule making and I know that they have already taken a lot of action in this area and that is why the fiscal note is so low. A bill was passed related to green building that encourages this and there are people out there already collecting rain water. The DOE would take all of the issues into consideration, such as impacts to in-stream flow and water quality, when developing their rules and regulations. Rain water would be used in the same basin from in which it was collected and not transferred to another basin. We want to make what grandma is doing legal. Ecology is already working with islands and cities on this and that is also why the fiscal note is low.

(Opposed) The pieces of the bill need to specifically state how rain water should be used and should address water quality issues as well. We think the bill needs more sideboards. The DOE has the smallest fiscal note for rule making that we have ever seen. If the DOE were to

go into rule making we want to make sure it is thoroughly done. The cumulative effect to large collection or impoundments to in-stream flows needs to be known. It makes us nervous to create a new exemption under the water code. The bill does not create a water right but it exempts a person from getting a new water right.

**Persons Testifying:** (In support) Representative McCoy, prime sponsor.

(Opposed) Scott Hazlegrove, Cadman Inc.; and Dawn Vyvyan, Yakama Nation Puyallup Tribe.

**Persons Signed In To Testify But Not Testifying:** None.