

HOUSE BILL REPORT

E2SHB 1374

As Passed House:

March 9, 2007

Title: An act relating to the Puget Sound partnership.

Brief Description: Creating the Puget Sound partnership.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Upthegrove, Sump, Hunt, Appleton, Chase, Kenney, Simpson, Roberts, Dickerson, Conway and Springer; by request of Governor Gregoire).

Brief History:

Committee Activity:

Select Committee on Puget Sound: 1/23/07, 2/13/07 [DPS];

Appropriations: 2/27/07, 3/1/07 [DP2S(w/o sub PUGT)].

Floor Activity:

Passed House: 3/9/07, 78-19.

Brief Summary of Engrossed Second Substitute Bill

- Creates the Puget Sound Partnership, a new state agency, to clean up and restore the environmental health of Puget Sound by the year 2020.
- Creates an action agenda to achieve clean-up and restoration goals.
- Creates four organizational entities within the Puget Sound Partnership.
- Provides grant preferences to certain entities.

HOUSE SELECT COMMITTEE ON PUGET SOUND

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Upthegrove, Chair; Eickmeyer, Vice Chair; Rolfes, Vice Chair; Sump, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; O'Brien, Pearson and Springer.

Staff: Karen Rogers (786-7388).

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.

HOUSE COMMITTEE ON APPROPRIATIONS

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 Select Committee on Puget Sound. Signed by 34 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Anderson, Buri, Chandler, Cody, Conway, Darneille, Dunn, Ericks, Fromhold, Grant, Haigh, Hinkle, Hunt, Hunter, Kagi, Kenney, Kessler, Kretz, Linville, McDermott, McDonald, McIntire, Morrell, Pettigrew, Priest, Schual-Berke, Seaquist, P. Sullivan and Walsh.

Staff: Alicia Dunkin (786-7178).

Background:

Description of Puget Sound

Puget Sound is a 2,800-square-mile inland water connected to the Pacific Ocean via the Strait of Juan de Fuca in the Pacific Northwest of the United States. It extends from Admiralty Inlet in the north, to Olympia, Washington, in the south.

Puget Sound waters include open marine waters; inland marine waters; glacially scoured fjords such as Hood Canal; numerous river and stream channels; and 2,500 miles of shoreline. Its basin, the land area whose freshwaters drain into the sound, encompasses water resource inventory areas (WRIA) 1 through 19, and extends into 12 counties: Clallam; Island; Jefferson; King; Kitsap; Mason; Pierce; San Juan; Skagit; Snohomish; Thurston; and Whatcom.

Environmental Entities

Dozens of state agencies, federal agencies, local governments, not-for-profits, and other environmental organizations address the environmental health of Puget Sound. Two state agencies are of particular note. One is the Puget Sound Action Team (PSAT), and the other is the Shared Strategy Salmon Recovery Council (Shared Strategy).

The PSAT was created in 1996 as the lead state agency to restore and protect the biological health and diversity of Puget Sound. A few of its primary duties include preparing a Puget Sound work plan and budget; coordinating, monitoring and research programs; and contracting works to address the environmental health of Puget Sound. It is led by the Action Team chair, and consists of the directors of several major state agencies, including Ecology; Agriculture; Natural Resources; and Fish and Wildlife.

Shared Strategy acts as the lead salmon-recovery regional entity. As such, it may plan, coordinate, and monitor the implementation of a regional salmon-recovery plan for Puget Sound.

Summary of Engrossed Second Substitute Bill:

A new state agency, called the Puget Sound Partnership (Partnership), is created with the task of cleaning up and restoring Puget Sound by the year 2020. The Partnership has several major components:

- the Action Agenda (Agenda), which states the goals and responsibilities of the Partnership;
- the Leadership Council, which leads the Partnership;
- the executive director, who administers the agency;
- the Coordination Board, consisting of stakeholders, which serves as the communication link between the Partnership and local entities; and
- the Puget Sound Science Advisory Council, consisting of technical and scientific representatives, which advises the Leadership Council and the executive director.

2020 Visions

The Leadership Council develops a science-based Agenda designed to restore the Puget Sound by 2020. The Agenda and its goals are based upon six visions:

- (1) a healthy human population supported by a healthy Puget Sound that is not threatened by changes in the ecosystem;
- (2) a quality of human life that is sustained by a functioning Puget Sound ecosystem;
- (3) healthy and sustaining populations of native species in Puget Sound, including a robust food web;
- (4) a healthy Puget Sound where freshwater, estuary, nearshore, marine, and upland habitats are protected, restored, and sustained;
- (5) an ecosystem that is supported by groundwater levels as well as river- and stream-flow levels sufficient to sustain people, fish, wildlife, and the natural functions of the environment; and
- (6) fresh and marine waters and sediments of a sufficient quality so that the waters in the region are safe for drinking, swimming, and other human uses and enjoyment, and are not harmful to the native marine mammals, fish, birds, and shellfish in the region.

The Partnership shall investigate governmental regulations that hinder success by the year 2020, and investigate human activities involving the removal of flora and fauna from Hood Canal and Puget Sound. Based upon its findings, the Partnership shall recommend changes to the Governor and Legislature.

Action Agenda

The Agenda is developed by the Leadership Council, and includes actions such as tasking the Leadership Council to set strategic goals, priorities, and measurable outcomes; identify entities responsible for completing said actions; and establish outcomes. The Agenda requires that the Leadership Council rely upon a sound science foundation; and that water-quantity, watershed, and marine-resource plans are integrated where appropriate. The Agenda also tasks the Leadership Council to evaluate the effectiveness and efficiency of the overall management system.

The Agenda requires state agencies implementing elements of the Agenda to provide the Partnership with their cost estimates for the ensuing biennium by June 1 of each even-numbered year, and work with the Partnership to develop biennial budget requests.

The Agenda requires the Leadership Council to submit its funding request to the Governor and to the Legislature by September 1st of each even-numbered year. The funding recommendations shall identify funding needs by plan element, and identify the time periods in which specific funding is needed. The Agenda also requires the Leadership Council to develop a financing strategy to secure stable, long-term funding, including proposals for new sources of funding.

The Agenda stipulates that the Leadership Council shall adopt the Agenda by September 1, 2008, and revise it every six years. Until the Agenda is adopted, the existing Puget Sound Management Plan and the 2007-2009 Puget Sound biennial plan shall remain in effect. The Puget Sound Management Plan shall continue to serve as the comprehensive conservation and management plan for the purposes of the Federal Clean Water Act until the Environmental Protection Agency approves the Agenda as the new management plan.

The Partnership provides technical assistance to local entities; identifies and prioritizes environmental needs, gaps, and ways to narrow gaps; promotes public education; and integrates local restoration efforts.

Leadership Council

The Leadership Council consists of seven voting members appointed by the Governor with the advice and consent of the Senate. Appointment terms for members are for four years, except for the initial appointments, which are staggered. The Leadership Council also has two non-voting members: the Commissioner of Public Lands, and the chair of the Puget Sound Science Advisory Council.

The Leadership Council has the authority and duty to provide all leadership, have overall responsibility, and make final decisions for the Partnership; and has the authority and duty to develop, approve, revise, and oversee implementation of the Agenda. It also has the authority and duty to allocate funds; enter into, amend, and terminate contracts with individuals, corporations, or research institutions; make grants to governmental and non-governmental entities; expend gifts, grants and endowments; and receive and expend funding from public agencies. However, the authority to administer the Partnership programs and budgets resides with the executive director.

The Leadership Council has many other authorities and duties, including the following:

- adopting procedural rules to carry out internal Partnership management;
- creating the Puget Sound Science Advisory Committee and approving the majority of the members of the Coordination Board; and
- creating entities to assist the Leadership Council.

The Leadership Council and the Partnership replace and assume the authorities of Shared Strategy and the Puget Sound Action Team (PSAT), respectively. The Leadership Council

shall become the new regional organization for Puget Sound salmon recovery; and the Partnership shall inherit all of the PSAT's duties and functions, and all but one of the PSAT's powers upon the PSAT's abolishment. The power not transferred to the Partnership is the PSAT's authority over the Shellfish On-site Sewage Grant Program, which is transferred to the Department of Health.

The Leadership Council's duties include: (1) developing a process to review and address citizen concerns with the Agenda; (2) conforming to the 1989 Centennial Accord procedures and standards when working with federally recognized Indian tribes; (3) submitting funding recommendations to the Governor and Legislature; (4) conducting internal reviews of Partnership effectiveness; and (5) recommending statutory changes to improve effectiveness.

Executive Director

The executive director (director) administers the Partnership. The director is accountable to the Governor and to the Leadership Council. The Governor appoints the director in consultation with the Leadership Council, and is instructed to consider the Leadership Council's recommendations when appointing the director.

The director administers operations, staff, the Partnership programs, and the Partnership budget. The director also prepares and updates the Agenda, enters into contracts and agreements with non-profit organizations, and promotes interagency and regional coordination.

Coordination Board

The Coordination Board is the stakeholder entity of the Partnership. The Coordination Board is appointed by October 1, 2007, and has 19 voting members, as well as non-voting members from the Legislature and appropriate federal and state agencies. The voting members include representatives from the geographic area of each of the 14 salmon recovery areas, the environmental and business communities, and tribal government. The Coordination Board serves as the communication and implementation link between the Partnership and local entities. The Coordination Board assists cities, counties, ports, tribes, watershed groups, and other governmental and private organizations; disseminates regional and basin-wide plans devised or approved by the Partnership to these groups; identifies local entities' capabilities, financial limitations, and regulatory barriers, and communicates this information to the Leadership Council and director.

Puget Sound Science Advisory Committee

The Puget Sound Science Advisory Committee (Science Advisory Committee) advises and assists the Leadership Council and the director in developing and revising the Agenda, by recommending updates to the Agenda, and by developing a strategic science program. The Science Advisory Committee also develops a biennial science work plan and the Puget Sound science update. The Science Advisory Committee may collaborate and consult with other scientists.

The Science Advisory Committee shall be created by November 1, 2007, and shall consist of nine members representative of the technical-experience and scientific disciplines. Members of the Science Advisory Committee are nominated by federal and state agencies, by members of the science-education community, by the business and environmental communities, and by the Coordination Board, and are appointed by the Leadership Council after a vetting process.

Local Government Partners

Local governmental entities that support and help implement the Agenda are considered Puget Sound Partners. These local governments are entitled to grant preferences under various grant-loan programs, such as the Public Works Trust Fund and the Water Quality Account. Grant preferences favoring Puget Sound Partners only apply to the Puget Sound Partner as compared to other local governments eligible for inclusion as a Puget Sound Partner. A Puget Sound Partner will not receive preference over a local government not located in the Puget Sound basin.

Funding Conditions

Any funding made directly available from the Partnership to another entity must be prioritized according to the Agenda, and conditioned with interagency agreements to ensure that the funding is used consistently with the Agenda. If funding is provided to an entity that is not required to disclose information under the state's Public Disclosure Act, then that entity is required to contractually agree to disclose information as a prerequisite to receiving the funds.

Funding made available directly to an agency other than the Partnership, via a budget proviso in the Omnibus Appropriations Act, may be conditioned in an interagency agreement only if the funding is identified for Agenda implementation and specifically mentioning the Partnership. The Partnership may only play an oversight role for other funds provided to state agencies. This oversight role includes the duty to report to the Governor and to the Legislature as to whether the funds were used consistently with the Agenda.

Reports, Programs, Plans, and Audits

State of the Sound Report. The Partnership shall submit a progress and recommendation report to the Governor and Legislature in January 2009, and every two years thereafter. The report will:

- assess participating entities' progress and compliance with funding terms;
- recommend needed statutory changes;
- identify and review Partnership and select Puget Sound-related agency funds; and
- recommend ways to better match future funds to needs.

Strategic Science Program. The Science Advisory Committee develops, and the Leadership Council adopts, a strategic science program, which may include an assessment and monitoring program, with baselines, protocols, guidelines and quantifiable measures.

Puget Sound Science Update. The Science Advisory Committee develops a Puget Sound science update by April 2010, with subsequent updates as needed. The update describes

current scientific understandings, and serves as the scientific basis for the selection of indicators measuring the health of Puget Sound, and for the status and trends of those indicators within the ecosystem framework.

Biennial Science Work Plan. The Science Advisory Committee develops, and the Leadership Council adopts, a biennial science work plan that consists of the following:

- identification of science and technical recommendations;
- description of existing science-related activities being conducted by regional entities;
- identification of gaps and necessary actions to fill gaps;
- specific work for the next biennium; and
- recommendations for improvement to on-going science work.

Biennial Funding Request. The Leadership Council submits its funding recommendations for the Agenda to the Governor and to the Legislature. The submittal is due by September 1, 2008, and by September 1 every even-numbered year thereafter.

Basin-wide Restoration Assessment. The Washington Academy of Sciences, upon request by the director, assesses the extent to which implementation of the Agenda has made progress toward the Agenda goals. The Partnership uses the assessment as a basis to change the Agenda, environmental indicators, and budget requests to the Governor and Legislature.

Performance Audit. The Joint Legislative Audit and Review Committee audits the Partnership in April 2011 and April 2016. The audit determines the extent to which Partnership-tagged funds contribute to overall restoration success, and the efficiency of the Partnership structure. Audits are submitted to the Governor and to the Legislature for review.

Other Actions

- The Partnership becomes a state-government department.
- The Partnership becomes the regional salmon recovery organization for Puget Sound salmon species.
- The Puget Sound Recovery Account is created.
- The Department of Health will administer the Shellfish On-Site Sewerage Grant Program.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2007.

Staff Summary of Public Testimony: (Select Committee on Puget Sound)

(In support) The intent of the bill is wonderful, and support for the bill's success and for the success of Puget Sound restoration is given.

The Partnership, while being a creature of the state, has a true partnership with non-state agencies. The Partnership chose not to recommend the top-down, command-and-control regulatory model. Instead, the Partnership decided to create a cooperative approach with

benchmarks, time-lines, and identifications of responsibilities and conflicts. Furthermore, the Partnership wants actions based on science.

(Neutral) The Puget Sound is sick and needs to be restored. To do this, the restoration approach must be basin-wide, and dedicated funding streams must be provided. Furthermore, the Partnership must honor existing agreements, recognize the positive steps already taken by the business community, and address the effects of population growth by linking itself with the Growth Management Act.

(Opposed) The bill lacks accountability measures, and it fails to provide the Partnership with the necessary authority to uphold accountability measures should such measures exist.

The bill needs to more clearly articulate the actions necessary for restoration success, measurable goals and performance measures, and who is responsible for carrying out these goals.

A new agency need not be created. Such an agency will duplicate structures that already exist, and will overlap with those existing structures. Rather than creating a new agency, it is better to work with the structures and agencies already in place. These existing structures and agencies are capable of accomplishing Puget Sound restoration; however, to do so, they must receive better support and be held accountable. Currently, stakeholders know how to work with local government; but if another layer of government is added, it will confuse local entities. Furthermore, local entities are already subject to too many top-heavy regulations and governments. The bill creates another top-heavy agency, when more bottom-up approaches are needed.

The Implementation Advisory Board is too big, thereby making it dysfunctional and unwieldy, and the Board membership fails to include other stakeholder groups, such as the small-business community and the recreation-business community.

The bill provides inadequate opportunity for public involvement. In addition, the transfer of the PSAT employees to the new agency will cause a loss of good people, and private property owners will bear the brunt of additional requirements without monetary compensation.

Staff Summary of Public Testimony: (Appropriations)

(In support) Staff are working on a proposal that would consolidate reports and would include more meaningful accountability measures. This is a long-term investment in Puget Sound, would build public accountability by 2020, and is a good investment. The bill includes important citizen civic leadership, accountability measures, incentives, and better prioritization on processes to clean up Puget Sound.

(With concerns) We support the work that has gone into the bill but the expenditure of funds given by state and local governments that relate to the Shoreline Management Act, Growth Management Act, work included in the action agenda, and work related to land use decisions, should not be limited. There will be tensions about how funds are expended and prioritized from the Public Works Trust Fund or the Centennial Account. If you limit the use of these

funds then it should not be from existing levels of funding but more funding should be provided or you will split the state. The rest of the state will apply for a separate pot of money if they are not located directly on Puget Sound. For example Bremerton could apply for Puget Sound money but Enumclaw could not even though Enumclaw's storm water drains to Puget Sound. At some point we need more funding for infrastructure and now this bill adds more things that we are directed to do.

(Opposed) None.

Persons Testifying: (Select Committee on Puget Sound) (In support) Kathleen Drew, Office of the Governor; Doug Sutherland, Department of Natural Resources; Terry Wright, Northwest Indian Fisheries Commission; Jim Kramer, Shared Strategy for Puget Sound; Patrick Hogan, Office of Congressman Jay Inslee; Bill Dewey, Taylor Shellfish Farms; Sue Joerger, Puget Soundkeeper Alliance; Gary Smith, Independent Business Association; Jim King, Citizens for Parks and Recreation; Mike Racine, Washington Scuba Alliance; Bob Jacobs, former Mayor of Olympia; Jody Kennedy, Surfrider Foundation; and Christopher Stearns, Cooper Point Association.

(Neutral) Kathy Fletcher, People for Puget Sound; Eric D. Johnson, Washington Public Ports Association; Eric B. Johnson, Washington Association of Counties; David Dicks, King County; Naki Stevens, People for Puget Sound; Lonnie Johns-Brown, League of Women Voters; Nick Federici, Washington Toxics Coalition; and Heath Packard, Audubon Washington.

(Opposed) Chris McCabe, Association of Washington Businesses; John Stuhlmiller, Washington Farm Bureau; Vivian Henderson, Kitsap Alliance of Property Owners; and Andrew Cook, Building Association of Washington.

Persons Testifying: (Appropriations) (In support) Representative Uptegrove, prime sponsor; Clifford Traisman, Washington Conservation Voters; and Jim Kramer, Shared Strategy.

(With concerns) Dave Williams, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying: (Select Committee on Puget Sound) None.

Persons Signed In To Testify But Not Testifying: (Appropriations) None.