

HOUSE BILL REPORT

ESHB 2875

As Passed Legislature

Title: An act relating to water quality.

Brief Description: Changing water quality provisions.

Sponsors: By House Committee on Agriculture & Ecology (originally sponsored by Representative Chandler).

Brief History:

Committee Activity:

Agriculture & Ecology: 1/31/96, 2/5/96 [DPS].

Floor Activity:

Passed House: 2/12/96, 59-36.

Senate Amended.

House refused to concur.

Senate insisted.

House insisted.

Senate Amended.

House Concurred.

Passed Legislature.

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Chandler, Chairman; Koster, Vice Chairman; Boldt; Clements; Delvin; Honeyford; Johnson; Mastin; Robertson and Schoesler, Assistant Ranking Minority Member.

Minority Report: Do not pass. Signed by 7 members: Representatives Chappell, Ranking Minority Member; Linville, Assistant Ranking Minority Member; R. Fisher; Murray; Ogden; Regala and Rust.

Staff: Rick Anderson (786-7114).

Background: The Puget Sound Water Quality Authority was created by the Legislature in 1985. The authority's principal purpose was to develop a comprehensive plan for the protection and clean-up of Puget Sound in a manner that

coordinated the activities of the hundreds of local, regional, and state jurisdictions within the Puget Sound basin.

The authority is comprised of 11 members: nine citizen members appointed by the Governor, and the director of the Department of Ecology and the Public Lands Commissioner serving ex officio. Three of the citizen members are to represent cities, counties and tribal governments. The director of Department of Ecology chairs the authority. The authority's 1993-1995 biennial operating budget was \$2,500,000, and it had approximately 20 full-time staff. It administered another \$1,700,000 in grants to local governments and citizen groups in that biennium.

The initial Puget Sound Water Quality Management Plan was adopted in 1986, and revised in 1989, 1991, and 1994. The plan contains numerous elements, addressing subjects such as nonpoint source pollution, municipal and industrial discharges, contaminated sediments, stormwater and combined sewer overflows, spill prevention and response, wetlands protection, research, and monitoring. The plan developed by the authority is to be implemented by appropriate state and local agencies subject to available funding. Ten state agencies have responsibilities for implementing the plan. In the 1995-97 biennium, approximately \$21 million was appropriated by the Legislature for plan implementation, including funding for approximately 200 agency staff.

Other duties of the authority include implementation of a Puget Sound long-term monitoring program (authorized in 1990); biennial reporting on the state of the sound, the status of plan implementation, and state and local actions affecting the sound; review of state agency budgets relating to Puget Sound; making recommendations to the Governor and Legislature; encouraging research on Puget Sound's water quality; and administering a public involvement and education program.

Originally scheduled for sunset in 1991, the 1990 Legislature reauthorized the authority until June 30, 1995. The reauthorizing legislation expanded the authority's membership, required its offices to be located in Olympia within the Department of Ecology, and clarified that the plan was to be implemented by appropriate agencies subject to available funding. The legislation also required the Governor's proposed biennial budget to identify Puget Sound funding levels, and directed the authority to prepare a strategy for implementing the plan that includes setting priorities. The Legislature also directed that the plan was to continue beyond the agency's sunset, with future plan implementation to be assigned by the Legislature.

The Legislative Budget Committee completed its latest sunset review of the authority in September, 1994. It recommended that the authority be continued and that the composition of the authority be changed to include an industrial discharger. It recommended legislative changes to focus the authority upon plan implementation, to de-emphasize plan revisions, and to omit unnecessary reporting requirements. The

Legislative Budget Committee also recommended that the authority distribute funds which implement the plan as a means to improve agency compliance with the plan.

Summary of Bill: The Puget Sound Water Quality Authority is not reauthorized. The Puget Sound Action Team is created, consisting of the executives of 10 state agencies, and three members, one each to represent cities, counties, and the Governor's office.

The action team is responsible for a number of functions related to developing and implementing a biennial work plan and budget to protect and restore Puget Sound. In developing the work plan and budget, the action team must meet the following objectives:

- (1) use the plan elements of the 1994 Puget Sound Water Quality Management Plan to protect and restore Puget Sound;
- (2) consider the problems and priorities identified in local plans; and
- (3) coordinate the work plan activities with other relevant activities, including local watershed plans and volunteer watershed restoration activities.

The work plan and budget must include the following elements:

- (1) an identification and prioritization of the state and local actions necessary to address the water pollution problems in five specified areas around Puget Sound as follows: Area 1 includes Island and San Juan Counties; Area 2 includes Skagit and Whatcom Counties; Area 3 includes Clallam and Jefferson Counties; Area 4 includes Snohomish, King, and Pierce Counties; and Area 5 includes Kitsap, Mason, and Thurston Counties;
- (2) funding for staff to characterize watersheds, provide technical assistance, and implement state responsibilities identified in the workplan;
- (3) funding to implement an ambient monitoring program for Puget Sound;
- (4) funding for local watershed action plans; and
- (5) funding to provide staff for the action team or administration and oversight.

The Puget Sound Council is created. The council is to consist of nine members, representing the Senate, the House of Representatives, agriculture, business, environment, tribes, the shellfish industry, cities, and counties. The council is responsible for making recommendations to the action team on workplan contents, plan amendments, and overall coordination.

The person representing the Governor's office is the chair of the action team and the Puget Sound Council. The chair is responsible for coordinating the overall activities of the action team and the council. The chair of the action team is responsible for reporting to the Legislature. Each proposed work plan must be submitted to the Legislature by December 20 of each even-numbered year. Beginning in 1998, the

chair of the action team must submit a report to the Legislature evaluating the progress made on the current work plan. The chair of the action team is also required to hold public hearings on the work plan.

The Puget Sound ambient monitoring program must include research and monitoring programs, including performance measures useful to the Governor and the Legislature as a means to track the progress of restoring the health of Puget Sound. Local governments are required to implement local elements of the work plan subject to the availability of funding. All proceedings of the action team are subject to the Open Meetings Act.

The action team must adopt a rule, previously adopted by the Puget Sound Water Quality Authority, that establishes planning guidelines for local watershed restoration efforts. The powers and duties of the Puget Sound Water Quality Authority are transferred to the action team. Four sections of law, added subsequent to the 1985 creation of the Puget Sound Water Quality Authority, are repealed. Two sections are recodified into a new chapter: a section relating to the Senior Environmental Corps and a section clarifying that the Puget Sound Water Quality Management Plan is valid after termination of the authority.

One million dollars is appropriated from the water quality account for the Department of Ecology to provide grants to local jurisdictions for on-site sewage disposal projects. In making these grants, the department is to give preference to areas that have established shellfish protection districts and that meet other specified criteria.

Appropriation: The sum of \$1,000,000 is appropriated from the water quality account.

Fiscal Note: Available.

Effective Date: Section 5 contains an emergency clause and takes effect immediately. Section 11 takes effect on June 30, 1996. The remaining sections take effect ninety days after adjournment of session in which bill is passed.

Testimony For: The substitute bill prioritizes implementation over planning. There is currently no accountability in terms of implementing the Puget Sound plan. The substitute bill provides technical assistance and funding to local governments, both key aspects to implementation. The substitute bill will provide better implementation of the authority's water quality plan. The determining factors of overall success will be the level of commitment provided by local governments, state agencies involved in the action team, the Governor's office, and the Legislature.

The substitute bill elevates the status of the plan by requiring the agency directors to coordinate work plan activities. Agencies need to be better coordinated. The

substitute bill provides coordination by establishing a position in the Governor's office to oversee agency activities. The substitute bill directs the management team to consolidate funding for local government implementation of plans. This action will be very beneficial to local governments. The chair's authority over the management team should be clarified. Sections relating to the overall policy mission of the management team and stormwater management need to be clarified.

Testimony Against: The substitute bill does not provide for citizen involvement. The involvement of citizens, tribes, businesses, environmental groups, and other stakeholders is absolutely essential. Local governments need to have a specific role on the management team. Local governments are a key factor in implementing the plan. Indian tribes are co-managers of the fishery resources and should be included in Puget Sound cleanup efforts. Agency directors and university presidents are too busy to provide the necessary focus to the clean-up of Puget Sound. One agency should be responsible for Puget Sound. The substitute bill should allow agency directors and university presidents to send designees. Citizen outreach and education are essential to Puget Sound Health. Public involvement and education (PIE) grants allow for an effective non-regulatory approach. PIE grants have funded numerous technical assistance and education activities, including the development of school curricula.

The management team's mission of protecting and restoring Puget Sound needs to be clarified. The work plan in the substitute bill creates a time lag that needs to be addressed. The substitute bill does not specify the costs of implementing the plan. The expertise of the Puget Sound Water Quality Authority should not be lost.

Testified: Eric Johnson, Washington Public Ports Association; Carolyn Kelly, Skagit Conservation District; and Tim Smith, Pacific Coast Oyster Growers Association (all in favor). Ann Aagaard, League of Women Voters; Lorna Ellestad, Ducks Unlimited, Scott Merriman, Washington Environmental Council; Jeff Parsons, People for Puget Sound; Bruce Wishart, Sierra Club; Hugh Spitzer, Puget Sound Water Quality Authority; Gary Lowe, WSAC; Roberta Gunn, Puget Soundkeeper Alliance; Bill Dewey, Taylor United, Inc.; Trent House, Association of Washington Business (all with comments). Steve Robinson, Northwest Indian Fish Community (not in favor).