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ENGROSSED SUBSTITUTE SENATE BILL 6166

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State of Washington

54th Legislature

1996 Regular Session

By Senate Committee on Ecology & Parks (originally sponsored by Senators Fraser, Swecker, Fairley and Winsley)

Read first time 01/19/96.

1 AN ACT Relating to protection of Puget Sound; amending RCW  
2 90.70.001, 90.70.011, 90.70.025, 90.70.055, 43.131.369, and 43.131.370;  
3 creating a new section; repealing RCW 90.70.035, 90.70.045, 90.70.060,  
4 90.70.065, 90.70.090, and 90.70.100; and providing an effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that since its  
7 creation in 1985, the Puget Sound water quality authority has been  
8 largely successful in adopting a comprehensive management plan for the  
9 restoration and long-term protection of Puget Sound, which is the  
10 principal guiding document for the coordination and strengthening of  
11 programs by local governments, the private sector, and federal and  
12 state agencies. The authority has continually revised the plan to  
13 reflect new information regarding the water quality and other  
14 environmental conditions of Puget Sound, and to respond to changing  
15 state and federal funding and programmatic requirements. The  
16 legislature finds that increased emphasis should now be placed upon  
17 implementing the plan, upon assisting those primarily responsible for  
18 implementing the plan, upon the long-term monitoring of Puget Sound's

1 environmental conditions, and upon measuring progress in the overall  
2 implementation of the management plan.

3 **Sec. 2.** RCW 90.70.001 and 1985 c 451 s 1 are each amended to read  
4 as follows:

5 The legislature finds that Puget Sound and related inland marine  
6 waterways of Washington state represent a unique and unparalleled  
7 resource. A rich and varied range of marine organisms, composing an  
8 interdependent, sensitive communal ecosystem reside in these sheltered  
9 waters. The legislature finds that Puget Sound is a gift of nature,  
10 central to the quality of life of all Washington citizens.

11 Residents of this region enjoy a way of life centered around the  
12 waters of Puget Sound, featuring accessible recreational opportunities,  
13 world-class port facilities and water transportation systems, harvest  
14 of marine food resources, shoreline-oriented life styles, water-  
15 dependent industries, tourism, irreplaceable aesthetics and other  
16 activities, all of which to some degree depend upon a clean and healthy  
17 marine resource.

18 ~~((The legislature further finds that the consequences of careless  
19 husbanding of this resource have been dramatically illustrated in  
20 inland waterways associated with older and more extensively developed  
21 areas of the nation. Recent reports concerning degradation of water  
22 quality within this region's urban embayments raise alarming  
23 possibilities of similar despoliation of Puget Sound and other state  
24 waterways. These examples emphasize that the costs of restoration of  
25 aquatic resources, where such restoration is possible, greatly exceed  
26 the costs of responsible preservation.~~

27 ~~The legislature declares that utilization of the Puget Sound  
28 resource carries a custodial obligation for preserving it. The people  
29 of the state have the unique opportunity to preserve this gift of  
30 nature, an understanding of the results of inattentive stewardship, the  
31 technical knowledge needed for control of degradation, and the  
32 obligation to undertake such control.))~~

33 The legislature further finds that the large number of governmental  
34 entities that now affect the ~~((water quality))~~ health of Puget Sound  
35 have diverse interests and limited jurisdictions which cannot  
36 adequately address the cumulative, wide-ranging impacts which  
37 contribute to the degradation of Puget Sound. ~~((It is therefore the  
38 policy of the state of Washington to create a single entity with~~

1 ~~adequate resources to develop a comprehensive plan for water quality~~  
2 ~~protection in Puget Sound to be implemented by existing state and local~~  
3 ~~government agencies.)~~)

4 These entities can benefit by better coordination among themselves  
5 with state agencies and citizen organizations, and efficiencies of  
6 effort can be obtained from such coordination. Further, the  
7 legislature finds that positive incentives and technical assistance can  
8 foster a cooperative spirit that will lead to better protection of  
9 Puget Sound.

10 It is therefore the policy of the state of Washington that  
11 protection of Puget Sound, including continued economic and  
12 recreational uses, can be best achieved by establishing an entity to  
13 coordinate the development of a comprehensive Puget Sound water quality  
14 management plan, to revise the plan periodically, and to focus its  
15 efforts on helping other state and federal agencies, local and tribal  
16 governments, businesses, and citizen organizations to implement the  
17 plan. The legislature declares that this entity, in its planning  
18 activity, shall foster coordinated research and education efforts,  
19 identify efficiencies and positive incentives that promote  
20 implementation of the plan, and provide technical assistance to state  
21 and federal agencies, local and tribal governments, and citizen  
22 organizations in their activities to implement the plan.

23 **Sec. 3.** RCW 90.70.011 and 1990 c 115 s 2 are each amended to read  
24 as follows:

25 (1) There is established the Puget Sound water quality authority  
26 composed of eleven members. Nine members shall be appointed by the  
27 governor and confirmed by the senate. In addition, the commissioner of  
28 public lands or the commissioner's designee and the director of ecology  
29 or the director's designee shall serve as ex officio members. Three of  
30 the members shall include a representative from the counties, a  
31 representative from the cities, and a tribal representative. The  
32 ~~((director of ecology shall be chair of the))~~ authority shall select a  
33 chair, who shall perform such duties and perform them for such period  
34 as the authority determines. In making these appointments, the  
35 governor shall seek to include representation of the variety of  
36 interested parties concerned about Puget Sound water quality, including  
37 representation from the business and environmental communities.  
38 Appointments to the authority shall also reflect geographical balance

1 and the diversity of population within the Puget Sound basin. (~~Of the~~  
2 ~~appointed members, at least one shall be selected from each of the six~~  
3 ~~congressional districts surrounding Puget Sound.~~) Members shall serve  
4 four-year terms. Of the initial members appointed to the authority,  
5 two shall serve for two years, two shall serve for three years, and two  
6 shall serve for four years. Thereafter members shall be appointed to  
7 four-year terms. Members representing cities, counties, and the tribes  
8 shall also serve four-year staggered terms, as determined by the  
9 governor. Vacancies shall be filled by appointment for the remainder  
10 of the unexpired term of the position being vacated. (~~The executive~~  
11 ~~director of the authority shall be selected by the governor and shall~~  
12 ~~serve at the pleasure of the governor. The executive director shall~~  
13 ~~not be a member of the authority.~~

14 ~~(2))~~ Members shall be compensated as provided in RCW 43.03.250.  
15 Members shall be reimbursed for travel expenses as provided in RCW  
16 43.03.050 and 43.03.060.

17 (2) The executive director of the authority shall be selected by  
18 the governor and shall serve at the pleasure of the governor. The  
19 executive director shall not be a member of the authority.

20 (3) The executive director of the authority shall be a full-time  
21 employee responsible for the administration of all functions of the  
22 authority, including hiring and terminating staff, budget preparation,  
23 contracting, coordinating with the governor, the legislature, and other  
24 state and local entities, and the delegation of responsibilities as  
25 deemed appropriate. The salary of the executive director shall be  
26 fixed by the governor, subject to RCW 43.03.040.

27 ~~(4) (The authority shall prepare a budget and a work plan.~~

28 ~~(5))~~ Not more than four employees of the authority may be exempt  
29 from the provisions of chapter 41.06 RCW.

30 ~~((6))~~ (5) The executive director and staff of the authority shall  
31 be located in the Olympia area, as space becomes available. The  
32 department of general administration shall house the authority within  
33 the department of ecology.

34 **Sec. 4.** RCW 90.70.025 and 1985 c 451 s 5 are each amended to read  
35 as follows:

36 In order to carry out its responsibilities under this chapter, the  
37 authority may:

1       (1) (~~Develop interim proposals and recommendations, before the~~  
2 ~~plan is adopted, concerning the elements identified in RCW 90.70.060;~~  
3       ~~(2)~~) Enter into, amend, and terminate contracts with individuals,  
4 corporations, or research institutions for the purposes of this  
5 chapter;  
6       (~~(3)~~) (2) Receive such gifts, grants, and endowments, in trust or  
7 otherwise, for the use and benefit of the purposes of the authority.  
8 The authority may expend the same or any income therefrom according to  
9 the terms of the gifts, grants, or endowments;  
10       (~~(4)~~) (3) Conduct studies and research relating to Puget Sound  
11 water quality;  
12       (~~(5)~~) (4) Obtain information relating to Puget Sound from other  
13 state and local agencies;  
14       (~~(6)~~) (5) Conduct appropriate public hearings, solicit extensive  
15 public participation, and otherwise seek to broadly disseminate  
16 information concerning Puget Sound;  
17       (~~(7)~~) (6) Receive and expend funding from other public agencies;  
18       (7) Establish priorities for funding the implementation of the  
19 plan; and  
20       (8) (~~Prepare a biennial budget request for consideration by the~~  
21 ~~governor and the legislature; and~~  
22       ~~(9)~~) Adopt rules under chapter 34.05 RCW as it deems necessary for  
23 the purposes of this chapter.

24       **Sec. 5.** RCW 90.70.055 and 1990 c 115 s 4 are each amended to read  
25 as follows:

26       The authority shall:

27       (1) (~~Prepare and adopt a~~) Serve the needs of state, local, and  
28 tribal governments and agencies in implementing the plan in a  
29 coordinated and timely manner by:

30       (a) Providing technical assistance to state, local, and tribal  
31 governments and agencies in the design, funding, and implementation of  
32 water quality programs and projects;

33       (b) Assisting state, local, and tribal governments and agencies to  
34 implement the plan in ways that are consistent with other planning,  
35 regulatory, and capital facility requirements;

36       (c) Encouraging and assisting in the development of local  
37 comprehensive strategies for water quality and watershed protection  
38 that are consistent with the goals of the plan;

1 (d) Seeking incentives for the development of local comprehensive  
2 water quality and watershed protection strategies that support the plan  
3 by advocating for federal and state financial assistance and for  
4 flexibility in federal and state regulatory requirements to allow  
5 implementation of local strategies; and

6 (e) Providing dispute resolution and mediation services between  
7 public agencies and between public and private entities to achieve  
8 coordinated implementation of the plan;

9 (2) Revise on an ongoing basis the comprehensive Puget Sound water  
10 quality management plan(, as defined in RCW 90.70.060) adopted by the  
11 authority in May 1994. In preparing the plan and any substantial  
12 revisions to the plan, the authority shall consult with its advisory  
13 ((committee or)) committees ((and)); appropriate federal, state, and  
14 local agencies((. The authority shall also solicit extensive  
15 participation by the public by whatever means it finds appropriate,  
16 including public hearings throughout communities bordering or near  
17 Puget Sound, dissemination of information through the news media,  
18 public notices, and mailing lists, and the organization of workshops,  
19 conferences, and seminars)); tribal governments; and private interests;

20 ((2) During the plan's initial development and any subsequent  
21 revisions, submit annual progress reports on plan revisions and  
22 implementation to the governor and the legislature.))

23 (3) ((Submit the plan to the governor and the legislature no later  
24 than January 1, 1987. The authority shall)) Review the plan at least  
25 every ((four)) six years and revise the plan, as deemed appropriate(,  
26 and shall submit the plan by July 1, 1994)). A revised plan shall be  
27 submitted to the governor and the legislature by July 1, 2000, and  
28 every ((four)) six years thereafter;

29 (4) Prepare a biennial "state of the Sound" report and submit such  
30 report to the governor, the legislature, and the state agencies and  
31 local governments identified in the plan. Copies of the report shall  
32 be made available to the public. The report shall describe the current  
33 condition of water quality and related resources in Puget Sound and  
34 ((shall)) include an assessment of the extent to which implementation  
35 of the plan has occurred and resulted in progress toward improving and  
36 protecting water quality in Puget Sound. The assessment shall be based  
37 upon an evaluation of performance measures required by subsection (6)  
38 of this section. The report may also include, but not be limited to:

1 (a) The status and condition of the resources of Puget Sound,  
2 including the results of ecological monitoring, including an assessment  
3 of the economic value of Puget Sound;

4 (b) Current and foreseeable trends in water quality of Puget Sound  
5 and the management of its resources;

6 (c) Review of significant public and private activities affecting  
7 Puget Sound and an assessment of whether such activities are consistent  
8 with the plan; and

9 (d) Recommendations to the governor, the legislature, and  
10 appropriate state and local agencies for actions needed to remedy any  
11 deficiencies in current policies, plans, programs, or activities  
12 relating to the water quality of Puget Sound, and recommendations  
13 concerning changes necessary to protect and improve Puget Sound water  
14 quality; ~~((and))~~

15 (5) Review the ~~((Puget Sound related budgets and regulatory and  
16 enforcement activities))~~ status of plan implementation efforts of state  
17 agencies with responsibilities for water quality and related resources  
18 in Puget Sound;

19 (6) In consultation with state agencies, local and tribal  
20 governments, and other public and private interests, develop and track  
21 quantifiable performance measures that can be used by the governor and  
22 the legislature to assess the effectiveness over time of programs and  
23 actions initiated under the plan to improve and protect Puget Sound  
24 water quality and biological resources. The performance measures shall  
25 be developed by June 30, 1997. State agencies shall assist the  
26 authority in the development and tracking of these performance  
27 measures. The performance measures may be limited to a selected  
28 geographic area;

29 (7) Appoint ad hoc advisory committees and solicit public  
30 participation as necessary to facilitate plan revision, plan  
31 implementation, coordination of the ambient monitoring program, and the  
32 conduct of other duties under this chapter;

33 (8) Ensure implementation and coordination of the Puget Sound  
34 ambient monitoring program, which includes:

35 (a) Developing a baseline and examining differences among areas of  
36 Puget Sound for environmental conditions, natural resources, and  
37 contaminants in sediments and marine life, against which future changes  
38 can be measured;

1 (b) Taking measurements relating to specific program elements  
2 identified in the plan;

3 (c) Measuring the progress of the ambient monitoring programs  
4 implemented under the plan;

5 (d) Providing a permanent record of significant natural and human-  
6 caused changes in key environmental indicators in Puget Sound;

7 (e) Supporting research on Puget Sound; and

8 (f) Participation of each agency with responsibilities for  
9 implementing the program, as specified in the plan;

10 (9) Provide, promote, coordinate, and publish research on Puget  
11 Sound water quality issues;

12 (10) Provide and promote education and involvement of the public on  
13 the preservation and protection of water quality and marine habitat in  
14 Puget Sound;

15 (11) Prepare a strategy for implementing the plan that includes,  
16 but is not limited to:

17 (a) Setting priorities for implementation of plan elements to  
18 facilitate executive and legislative decision making;

19 (b) Assessing the capabilities and constraints, both internal and  
20 external to state and local government, that may affect plan  
21 implementation;

22 (c) Analyzing the strategic options in light of the resources  
23 available to the state. In developing this strategy, the authority  
24 shall consult and coordinate with other related environmental planning  
25 efforts; and

26 (12) To reduce costs and improve efficiency, review by December 1,  
27 1996, all requirements for reports and documentation from state  
28 agencies and local governments specified in the plan and in this  
29 chapter. Based on this review, the authority shall, if appropriate,  
30 eliminate and consolidate reports, modify reporting schedules to  
31 correspond to publication of the state of the Sound report, and modify  
32 reporting requirements to support evaluation of performance measures  
33 required by subsection (6) of this section.

34 NEW SECTION. Sec. 6. The following acts or parts of acts are each  
35 repealed:

36 (1) RCW 90.70.035 and 1985 c 451 s 6;

37 (2) RCW 90.70.045 and 1994 c 264 s 97, 1990 c 115 s 3, 1988 c 36 s  
38 72, & 1985 c 451 s 7;



1 (3) RCW 90.70.060 and 1990 c 115 s 5, 1989 c 11 s 31, & 1985 c 451  
2 s 8;

3 (4) RCW 90.70.065 and 1995 c 269 s 3501, 1994 c 264 s 98, & 1990 c  
4 115 s 9;

5 (5) RCW 90.70.090 and 1990 c 115 s 8; and

6 (6) RCW 90.70.100 and 1991 c 200 s 502.

7 **Sec. 7.** RCW 43.131.369 and 1990 c 115 s 11 are each amended to  
8 read as follows:

9 The Puget Sound water quality authority and its powers and duties  
10 shall be terminated on June 30, (~~(1995)~~) 2001, as provided in RCW  
11 43.131.370.

12 **Sec. 8.** RCW 43.131.370 and 1990 c 115 s 12 are each amended to  
13 read as follows:

14 The following acts or parts of acts, as now existing or hereafter  
15 amended, are each repealed, effective June 30, (~~(1996)~~) 2002:

16 (1) Section 1, chapter 451, Laws of 1985 and RCW 90.70.001;

17 (2) Section 2, chapter 451, Laws of 1985 and RCW 90.70.005;

18 (3) Section 3, chapter 451, Laws of 1985, section 2, chapter 115,  
19 Laws of 1990 and RCW 90.70.011;

20 (4) Section 5, chapter 451, Laws of 1985 and RCW 90.70.025;

21 (~~(5) Section 6, chapter 451, Laws of 1985 and RCW 90.70.035;~~

22 ~~(6) Section 7, chapter 451, Laws of 1985, section 72, chapter 36,  
23 Laws of 1988, section 3, chapter 115, Laws of 1990 and RCW 90.70.045;~~

24 ~~(7))~~ Section 4, chapter 451, Laws of 1985, section 4, chapter 115,  
25 Laws of 1990 and RCW 90.70.055;

26 (~~(8) Section 8, chapter 451, Laws of 1985, section 31, chapter 11,  
27 Laws of 1989, section 5, chapter 115, Laws of 1990 and RCW 90.70.060;~~

28 ~~(9))~~ (6) Section 9, chapter 451, Laws of 1985, section 6, chapter  
29 115, Laws of 1990 and RCW 90.70.070;

30 (~~(10))~~ (7) Section 10, chapter 451, Laws of 1985, section 7,  
31 chapter 115, Laws of 1990 and RCW 90.70.080; and

32 (~~(11))~~ (8) Section 14, chapter 451, Laws of 1985 and RCW  
33 90.70.901.

34 NEW SECTION. **Sec. 9.** This act shall take effect June 30, 1996.

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