

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6761

Chapter 80, Laws of 2008

60th Legislature
2008 Regular Session

WETLANDS MITIGATION BANKS

EFFECTIVE DATE: 06/12/08

Passed by the Senate March 10, 2008
YEAS 46 NAYS 1

BRAD OWEN

President of the Senate

Passed by the House March 6, 2008
YEAS 94 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved March 19, 2008, 10:04 a.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6761** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

March 20, 2008

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6761

AS AMENDED BY THE HOUSE

Passed Legislature - 2008 Regular Session

State of Washington 60th Legislature 2008 Regular Session

By Senate Transportation (originally sponsored by Senators Haugen, Swecker, Spanel, and Rasmussen)

READ FIRST TIME 02/12/08.

1 AN ACT Relating to service areas for wetlands mitigation banks; and
2 amending RCW 90.84.030 and 90.84.040.

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

4 **Sec. 1.** RCW 90.84.030 and 1998 c 248 s 4 are each amended to read
5 as follows:

6 (1) Subject to the requirements of this chapter, the department,
7 through a collaborative process, shall adopt rules for:

8 ~~((1))~~ (a) Certification, operation, and monitoring of wetlands
9 mitigation banks. The rules shall include procedures to assure that:

10 ~~((a))~~ (i) Priority is given to banks providing for the
11 restoration of degraded or former wetlands;

12 ~~((b))~~ (ii) Banks involving the creation and enhancement of
13 wetlands are certified only where there are adequate assurances of
14 success and that the bank will result in an overall environmental
15 benefit; and

16 ~~((c))~~ (iii) Banks involving the preservation of wetlands or
17 associated uplands are certified only when the preservation is in
18 conjunction with the restoration, enhancement, or creation of a

1 wetland, or in other exceptional circumstances as determined by the
2 department consistent with this chapter;

3 ~~((+2))~~ (b) Determination and release of credits from banks.
4 Procedures regarding credits shall authorize the use and sale of
5 credits to offset adverse impacts and the phased release of credits as
6 different levels of the performance standards are met;

7 ~~((+3))~~ (c) Public involvement in the certification of banks, using
8 existing statutory authority;

9 ~~((+4))~~ (d) Coordination of governmental agencies, including early
10 notification of the local government where the bank is located;

11 ~~((+5))~~ (e) Establishment of criteria for determining service areas
12 for each bank in accordance with subsection (2) of this section;

13 ~~((+6))~~ (f) Performance standards; and

14 ~~((+7))~~ (g) Long-term management, financial assurances, and
15 remediation for certified banks.

16 (2) The criteria for determining service areas under subsection
17 (1)(e) of this section shall include a requirement that restricts the
18 maximum extent of the service area of a wetlands mitigation bank to the
19 water resource inventory area (WRIA) as established under chapter
20 173-500 WAC in which the bank is located except where a service area
21 may include parts of other WRIAs if it is ecologically defensible and
22 appropriate.

23 (3) Before adopting rules under this chapter, the department shall
24 submit the proposed rules to the appropriate standing committees of the
25 legislature. By January 30, 1999, the department shall submit a report
26 to the appropriate standing committees of the legislature on its
27 progress in developing rules under this chapter.

28 **Sec. 2.** RCW 90.84.040 and 1998 c 248 s 5 are each amended to read
29 as follows:

30 (1) The department may certify only those banks that meet the
31 requirements of this chapter. Certification shall be accomplished
32 through a banking instrument. The local jurisdiction in which the bank
33 is located shall be signatory to the banking instrument.

34 (2) For a bank for which an application for a banking instrument
35 was filed January 1, 2008, or thereafter, the department may not
36 certify a bank without local approval of the bank. The local

1 jurisdiction in which the bank is located has final approval over the
2 certification of the mitigation bank. If the local government approves
3 the bank, it shall be a signatory to the banking instrument.

4 (3) State agencies and local governments may approve use of credits
5 from a bank for any mitigation required under a permit issued or
6 approved by that state agency or local government to compensate for the
7 proposed impacts of a specific public or private project.

Passed by the Senate March 10, 2008.

Passed by the House March 6, 2008.

Approved by the Governor March 19, 2008.

Filed in Office of Secretary of State March 20, 2008.