
ENGROSSED SUBSTITUTE HOUSE BILL 1490

State of Washington

52nd Legislature

1991 Regular Session

By House Committee on Local Government (originally sponsored by Representatives R. Johnson, Haugen, Roland, Kremen, Rayburn, Spanel, Rust, Braddock, Scott and Paris).

Read first time March 1, 1991.

1 AN ACT Relating to flood control management; amending RCW
2 86.26.050, 86.26.090, and 86.26.100; reenacting and amending RCW
3 86.16.110; reenacting RCW 86.15.178; adding new sections to chapter
4 86.12 RCW; adding a new section to chapter 86.15 RCW; creating new
5 sections; and repealing RCW 86.15.040, 86.16.027, 86.16.030, 86.16.040,
6 86.16.060, 86.16.065, 86.16.067, 86.16.070, 86.16.080, 86.16.090, and
7 86.16.170.

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

9 NEW SECTION. **Sec. 1.** The purpose of this act is to permit
10 counties to adopt a comprehensive system of flood control management
11 and protection within drainage basins and to coordinate the flood
12 control activities of the state, counties, cities, towns, and special
13 districts within such drainage basins.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 86.12 RCW
2 to read as follows:

3 The county legislative authority of any county may adopt a
4 comprehensive flood control management plan for any drainage basin that
5 is located wholly or partially within the county.

6 A comprehensive flood control management plan shall include the
7 following elements:

8 (1) Designation of areas that are susceptible to periodic flooding,
9 from inundation by bodies of water or surface water runoff, or both,
10 including the river's meander belt or floodway;

11 (2) Establishment of a comprehensive scheme of flood control
12 protection and improvements for the areas that are subject to such
13 periodic flooding, that includes: (a) Determining the need for, and
14 desirable location of, flood control improvements to protect or
15 preclude flood damage to structures, works, and improvements, based
16 upon a cost/benefit ratio between the expense of providing and
17 maintaining these improvements and the benefits arising from these
18 improvements; (b) establishing the level of flood protection that each
19 portion of the system of flood control improvements will be permitted;
20 (c) identifying alternatives to in-stream flood control work; (d)
21 identifying areas where flood waters could be directed during a flood
22 to avoid damage to buildings and other structures; and (e) identifying
23 sources of revenue that will be sufficient to finance the comprehensive
24 scheme of flood control protection and improvements;

25 (3) Establishing land use regulations that preclude the location of
26 structures, works, or improvements in critical portions of such areas
27 subject to periodic flooding, including a river's meander belt or
28 floodway, and permitting only flood-compatible land uses in such areas;

1 (4) Establishing restrictions on construction activities in areas
2 subject to periodic floods that require the flood proofing of those
3 structures that are permitted to be constructed or remodeled; and

4 (5) Establishing restrictions on land clearing activities and
5 development practices that exacerbate flood problems by increasing the
6 flow or accumulation of flood waters, or the intensity of drainage, on
7 low-lying areas.

8 A comprehensive flood control management plan shall be subject to
9 the minimum requirements for participation in the national flood
10 insurance program, requirements exceeding the minimum national flood
11 control insurance program that have been adopted by the department of
12 ecology for a specific flood plain pursuant to RCW 86.16.031, and rules
13 adopted by the department of ecology pursuant to RCW 86.26.050 relating
14 to flood plain management activities. When a county plans under
15 chapter 36.70A RCW, it may incorporate the portion of its comprehensive
16 flood control management plan relating to land use restrictions in its
17 comprehensive plan and development regulations adopted pursuant to
18 chapter 36.70A RCW.

19 NEW SECTION. **Sec. 3.** A new section is added to chapter 86.12 RCW
20 to read as follows:

21 A comprehensive flood control management plan that includes an area
22 within which a city or town, or a special district subject to chapter
23 85.38 RCW, is located shall be developed by the county with the
24 participation of officials from the city, town, or special district,
25 including conservation districts, and appropriate state and federal
26 agencies. Where a comprehensive flood control management plan is being
27 prepared for a river that is part of the common boundary between two
28 counties, the county legislative authority of the county preparing the

1 plan may allow participation by officials of the adjacently located
2 county.

3 A comprehensive flood control management plan shall be binding on
4 each city, town, and special district that is located within an area
5 included in the plan, except that the land use regulations and
6 restrictions on construction activities contained in a comprehensive
7 flood control management plan applicable to a city or town shall be
8 minimum standards that the city or town may exceed.

9 NEW SECTION. **Sec. 4.** A new section is added to chapter 86.12 RCW
10 to read as follows:

11 A county may create one or more advisory committees to assist in
12 the development of proposed comprehensive flood control management
13 plans and to provide general advice on flood problems. The advisory
14 committees may include city and town officials, officials of special
15 districts subject to chapter 85.38 RCW, conservation districts,
16 appropriate state and federal officials, and officials of other
17 counties and other interested persons.

18 **Sec. 5.** RCW 86.26.050 and 1988 c 36 s 64 are each amended to read
19 as follows:

20 (1) State participation shall be in such preparation of
21 comprehensive flood control management plans under this chapter and
22 chapter 86.12 RCW, cost sharing feasibility studies for new flood
23 control projects, and flood control maintenance projects as are
24 affected with a general public and state interest, as differentiated
25 from a private interest, and as are likely to bring about public
26 benefits commensurate with the amount of state funds allocated thereto.

27 (2) No participation for flood control maintenance projects may
28 occur with a county or other municipal corporation unless the director

1 of ecology has approved the flood plain management activities of the
2 county, city, or town having planning jurisdiction over the area where
3 the flood control maintenance project will be, on the one hundred year
4 flood plain surrounding such area.

5 The department of ecology shall adopt rules concerning the flood
6 plain management activities of a county, city, or town that are
7 adequate to protect or preclude flood damage to structures, works, and
8 improvements, including the restriction of land uses within a river's
9 meander belt or floodway to only flood-compatible uses. Whenever the
10 department has approved county, city, and town flood plain management
11 activities, as a condition of receiving an allocation of funds under
12 this chapter, each revision to the flood plain management activities
13 must be approved by the department of ecology, in consultation with the
14 department of fisheries and the department of wildlife.

15 No participation with a county or other municipal corporation for
16 flood control maintenance projects may occur unless the county engineer
17 of the county within which the flood control maintenance project is
18 located certifies that a comprehensive flood control management plan
19 has been completed and adopted by the appropriate local authority, or
20 is being prepared for all portions of the river basin or other area,
21 within which the project is located in that county, that are subject to
22 flooding with a frequency of one hundred years or less.

23 (3) Participation for flood control maintenance projects and
24 preparation of comprehensive flood control management plans shall be
25 made from grants made by the department of ecology from the flood
26 control assistance account. Comprehensive flood control management
27 plans, and any revisions to the plans, must be approved by the
28 department of ecology, in consultation with the department of fisheries
29 and the department of wildlife. The department may only grant
30 financial assistance to local governments that, in the opinion of the

1 department, are making good faith efforts to take advantage of, or
2 comply with, federal and state flood control programs.

3 **Sec. 6.** RCW 86.26.090 and 1984 c 212 s 7 are each amended to read
4 as follows:

5 The state shall participate with eligible local authorities in
6 maintaining and restoring the normal and reasonably stable river and
7 stream channel alignment and the normal and reasonably stable river and
8 stream channel capacity for carrying off flood waters with a minimum of
9 damage from bank erosion or overflow of adjacent lands and property;
10 and in restoring, maintaining and repairing natural conditions, works
11 and structures for the maintenance of such conditions. State
12 participation in the repair of flood control facilities may include the
13 enhancement of such facilities. The state shall likewise participate
14 in the restoration and maintenance of natural conditions, works or
15 structures for the protection of lands and other property from
16 inundation or other damage by the sea or other bodies of water. Funds
17 from the flood control assistance account shall not be available for
18 maintenance of works or structures maintained solely for the detention
19 or storage of flood waters.

20 **Sec. 7.** RCW 86.26.100 and 1986 c 46 s 4 are each amended to read
21 as follows:

22 State participation in the cost of any flood control maintenance
23 project shall be provided for by a written memorandum agreement between
24 the director of ecology and the legislative authority of the county
25 submitting the request, which agreement, among other things, shall
26 state the estimated cost and the percentage thereof to be borne by the
27 state. In no instance, except on emergency projects, shall the state's
28 share exceed one-half the cost of the project, to include project

1 planning and design. Grants for cost sharing feasibility studies for
2 new flood control projects shall not exceed fifty percent of the
3 matching funds that are required by the federal government, and shall
4 not exceed twenty-five percent of the total costs of the feasibility
5 study. However, grants to prepare a comprehensive flood control
6 management plan required under RCW 86.26.050 shall not exceed seventy-
7 five percent of the full planning costs, but not to exceed amounts for
8 either purpose specified in rule and regulation by the department of
9 ecology.

10 NEW SECTION. **Sec. 8.** A new section is added to chapter 86.15 RCW
11 to read as follows:

12 A board may not establish a zone including an area located in
13 another zone unless this area is removed from the other zone, or the
14 other zone is dissolved, as part of the action creating the new zone.

15 **Sec. 9.** RCW 86.15.178 and 1983 c 315 s 23 and 1983 c 167 s 212 are
16 each reenacted to read as follows:

17 (1) The supervisors may authorize the issuance of revenue bonds to
18 finance any flood control improvement or storm water control
19 improvement. The bonds may be issued by the supervisors in the same
20 manner as prescribed in RCW 36.67.510 through 36.67.570 pertaining to
21 counties. The bonds shall be issued on behalf of the zone or
22 participating zones when the improvement has by the resolution,
23 provided in RCW 86.15.110, been found to be of benefit to a zone or
24 participating zones. The bonds may be in any form, including bearer
25 bonds or registered bonds.

26 Each revenue bond shall state on its face that it is payable from
27 a special fund, naming the fund and the resolution creating the fund.

1 Revenue bond principal, interest, and all other related necessary
2 expenses shall be payable only out of the appropriate special fund.

3 A zone or participating zones shall have a lien for delinquent
4 service charges, including interest thereon, against the premises
5 benefited by a flood control improvement or storm water control
6 improvement, which lien shall be superior to all other liens and
7 encumbrances except general taxes and local and special assessments.
8 The lien shall be effective and shall be enforced and foreclosed in the
9 same manner as provided for sewerage liens of cities and towns by RCW
10 35.67.200 through 35.67.290.

11 (2) Notwithstanding subsection (1) of this section, such bonds may
12 be issued and sold in accordance with chapter 39.46 RCW.

13 **Sec. 10.** RCW 86.16.110 and 1987 c 109 s 23 are each reenacted and
14 amended to read as follows:

15 Any person, association, or corporation, public, municipal, or
16 private, feeling aggrieved at any order, decision, or determination of
17 the department or director pursuant to this chapter, affecting his or
18 her interest, may have the same reviewed pursuant to RCW 43.21B.310.

19 NEW SECTION. **Sec. 11.** The department of fisheries and the
20 department of wildlife shall process hydraulic project applications
21 submitted under RCW 75.20.100 or 75.20.103 within thirty days of
22 receipt of the application. This requirement is only applicable for
23 the repair and reconstruction of legally constructed dikes, seawalls,
24 and other flood control structures damaged as a result of flooding or
25 windstorms which occurred in November and December, 1990.

26 NEW SECTION. **Sec. 12.** The following acts or parts of acts are
27 each repealed:

- 1 (1) RCW 86.15.040 and 1961 c 153 s 4;
- 2 (2) RCW 86.16.027 and 1987 c 109 s 51 & 1935 c 159 s 9;
- 3 (3) RCW 86.16.030 and 1987 c 109 s 52 & 1935 c 159 s 5;
- 4 (4) RCW 86.16.040 and 1987 c 109 s 54 & 1935 c 159 s 11;
- 5 (5) RCW 86.16.060 and 1987 c 109 s 55 & 1935 c 159 s 13;
- 6 (6) RCW 86.16.065 and 1987 c 109 s 56 & 1935 c 159 s 14;
- 7 (7) RCW 86.16.067 and 1987 c 109 s 57, 1985 c 469 s 86, & 1935 c
- 8 159 s 15;
- 9 (8) RCW 86.16.070 and 1987 c 109 s 58 & 1935 c 159 s 16;
- 10 (9) RCW 86.16.080 and 1987 c 109 s 59 & 1935 c 159 s 10;
- 11 (10) RCW 86.16.090 and 1987 c 109 s 60, 1939 c 85 s 2, & 1935 c 159
- 12 s 7; and
- 13 (11) RCW 86.16.170 and 1987 c 109 s 62 & 1973 c 75 s 3.