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**SUBSTITUTE HOUSE BILL 1490**

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**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 86.26.007, 86.26.050, 86.26.090, and 86.26.100; reenacting and amending  
3 RCW 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; repealing RCW  
5 86.15.040, 86.16.027, 86.16.030, 86.16.040, 86.16.060, 86.16.065,  
6 86.16.067, 86.16.070, 86.16.080, 86.16.090, and 86.16.170; making an  
7 appropriation; and declaring an emergency.

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 86.26.007 and 1986 c 46 s 1 are each amended to read  
19 as follows:

20 The flood control assistance account is hereby established in the  
21 state treasury. At the beginning of each biennium after June 30,  
22 (~~(1985)~~) 1991, the state treasurer shall transfer from the general fund  
23 to the flood control assistance account an amount of money which, when  
24 combined with money remaining in the account from the previous  
25 biennium, will equal (~~(four)~~) ten million dollars. Moneys in the flood  
26 control assistance account may be spent only after appropriation for  
27 purposes specified under this chapter.

1 All earnings of investments of balances in the flood control  
2 assistance account shall be credited to the general fund.

3 **Sec. 6.** RCW 86.26.050 and 1988 c 36 s 64 are each amended to read  
4 as follows:

5 (1) State participation shall be in such preparation of  
6 comprehensive flood control management plans under this chapter and  
7 chapter 86.12 RCW, cost sharing feasibility studies for new flood  
8 control projects, and flood control maintenance projects as are  
9 affected with a general public and state interest, as differentiated  
10 from a private interest, and as are likely to bring about public  
11 benefits commensurate with the amount of state funds allocated thereto.

12 (2) No participation for flood control maintenance projects may  
13 occur with a county or other municipal corporation unless the director  
14 of ecology has approved the flood plain management activities of the  
15 county, city, or town having planning jurisdiction over the area where  
16 the flood control maintenance project will be, on the one hundred year  
17 flood plain surrounding such area.

18 The department of ecology shall adopt rules concerning the flood  
19 plain management activities of a county, city, or town that are  
20 adequate to protect or preclude flood damage to structures, works, and  
21 improvements, including the restriction of land uses within a river's  
22 meander belt or floodway to only flood-compatible uses. Whenever the  
23 department has approved county, city, and town flood plain management  
24 activities, as a condition of receiving an allocation of funds under  
25 this chapter, each revision to the flood plain management activities  
26 must be approved by the department of ecology, in consultation with the  
27 department of fisheries and the department of wildlife.

28 No participation with a county or other municipal corporation for  
29 flood control maintenance projects may occur unless the county engineer

1 of the county within which the flood control maintenance project is  
2 located certifies that a comprehensive flood control management plan  
3 has been completed and adopted by the appropriate local authority, or  
4 is being prepared for all portions of the river basin or other area,  
5 within which the project is located in that county, that are subject to  
6 flooding with a frequency of one hundred years or less.

7 (3) Participation for flood control maintenance projects and  
8 preparation of comprehensive flood control management plans shall be  
9 made from grants made by the department of ecology from the flood  
10 control assistance account. Comprehensive flood control management  
11 plans, and any revisions to the plans, must be approved by the  
12 department of ecology, in consultation with the department of fisheries  
13 and the department of wildlife.

14 **Sec. 7.** RCW 86.26.090 and 1984 c 212 s 7 are each amended to read  
15 as follows:

16 The state shall participate with eligible local authorities in  
17 maintaining and restoring the normal and reasonably stable river and  
18 stream channel alignment and the normal and reasonably stable river and  
19 stream channel capacity for carrying off flood waters with a minimum of  
20 damage from bank erosion or overflow of adjacent lands and property;  
21 and in restoring, maintaining and repairing natural conditions, works  
22 and structures for the maintenance of such conditions. State  
23 participation in the repair of flood control facilities may include the  
24 enhancement of such facilities. The state shall likewise participate  
25 in the restoration and maintenance of natural conditions, works or  
26 structures for the protection of lands and other property from  
27 inundation or other damage by the sea or other bodies of water. Funds  
28 from the flood control assistance account shall not be available for

1 maintenance of works or structures maintained solely for the detention  
2 or storage of flood waters.

3 **Sec. 8.** RCW 86.26.100 and 1986 c 46 s 4 are each amended to read  
4 as follows:

5 State participation in the cost of any flood control maintenance  
6 project shall be provided for by a written memorandum agreement between  
7 the director of ecology and the legislative authority of the county  
8 submitting the request, which agreement, among other things, shall  
9 state the estimated cost and the percentage thereof to be borne by the  
10 state. In no instance, except on emergency projects, shall the state's  
11 share exceed one-half the cost of the project, to include project  
12 planning and design. Grants for cost sharing feasibility studies for  
13 new flood control projects shall not exceed fifty percent of the  
14 matching funds that are required by the federal government. However,  
15 grants to prepare a comprehensive flood control management plan  
16 required under RCW 86.26.050 shall not exceed seventy-five percent of  
17 the full planning costs, but not to exceed amounts for either purpose  
18 specified in rule and regulation by the department of ecology.

19 NEW SECTION. **Sec. 9.** A new section is added to chapter 86.15 RCW  
20 to read as follows:

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

24 **Sec. 10.** RCW 86.15.178 and 1983 c 315 s 23 and 1983 c 167 s 212  
25 are each reenacted to read as follows:

26 (1) The supervisors may authorize the issuance of revenue bonds to  
27 finance any flood control improvement or storm water control

1 improvement. The bonds may be issued by the supervisors in the same  
2 manner as prescribed in RCW 36.67.510 through 36.67.570 pertaining to  
3 counties. The bonds shall be issued on behalf of the zone or  
4 participating zones when the improvement has by the resolution,  
5 provided in RCW 86.15.110, been found to be of benefit to a zone or  
6 participating zones. The bonds may be in any form, including bearer  
7 bonds or registered bonds.

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

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

12 A zone or participating zones shall have a lien for delinquent  
13 service charges, including interest thereon, against the premises  
14 benefited by a flood control improvement or storm water control  
15 improvement, which lien shall be superior to all other liens and  
16 encumbrances except general taxes and local and special assessments.  
17 The lien shall be effective and shall be enforced and foreclosed in the  
18 same manner as provided for sewerage liens of cities and towns by RCW  
19 35.67.200 through 35.67.290.

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

22 **Sec. 11.** RCW 86.16.110 and 1987 c 109 s 23 are each reenacted and  
23 amended to read as follows:

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

1        NEW SECTION.    **Sec. 12.**        The department of fisheries and the  
2 department of wildlife shall process hydraulic project applications  
3 submitted under RCW 75.20.100 or 75.20.103 within thirty days of  
4 receipt of the application. This requirement is only applicable for  
5 the repair and reconstruction of legally constructed dikes, seawalls,  
6 and other flood control structures damaged as a result of flooding or  
7 windstorms which occurred in November and December, 1990.

8        NEW SECTION.    **Sec. 13.**        The sum of five million dollars, or as  
9 much thereof as may be necessary, is appropriated for the biennium  
10 ending June 30, 1991, from the general fund to the department of  
11 ecology to finance the emergency repair and reconstruction of dikes,  
12 seawalls, and other flood control improvements damaged during flooding  
13 occurring in November 1990.

14        NEW SECTION.    **Sec. 14.**        The following acts or parts of acts are  
15 each repealed:

- 16        (1) RCW 86.15.040 and 1961 c 153 s 4;
- 17        (2) RCW 86.16.027 and 1987 c 109 s 51 & 1935 c 159 s 9;
- 18        (3) RCW 86.16.030 and 1987 c 109 s 52 & 1935 c 159 s 5;
- 19        (4) RCW 86.16.040 and 1987 c 109 s 54 & 1935 c 159 s 11;
- 20        (5) RCW 86.16.060 and 1987 c 109 s 55 & 1935 c 159 s 13;
- 21        (6) RCW 86.16.065 and 1987 c 109 s 56 & 1935 c 159 s 14;
- 22        (7) RCW 86.16.067 and 1987 c 109 s 57, 1985 c 469 s 86, & 1935 c  
23 159 s 15;
- 24        (8) RCW 86.16.070 and 1987 c 109 s 58 & 1935 c 159 s 16;
- 25        (9) RCW 86.16.080 and 1987 c 109 s 59 & 1935 c 159 s 10;
- 26        (10) RCW 86.16.090 and 1987 c 109 s 60, 1939 c 85 s 2, & 1935 c 159  
27 s 7; and
- 28        (11) RCW 86.16.170 and 1987 c 109 s 62 & 1973 c 75 s 3.

1        NEW SECTION.    **Sec. 15.**        This act is necessary for the immediate  
2 preservation of the public peace, health, or safety, or support of the  
3 state government and its existing public institutions, and shall take  
4 effect immediately.