
HOUSE BILL 1490

State of Washington

52nd Legislature

1991 Regular Session

By Representatives R. Johnson, Haugen, Roland, Kremen, Rayburn, Spanel, Rust, Braddock, Scott and Paris.

Read first time January 31, 1991. Referred to Committee on Local Government.

1 AN ACT Relating to flood control management; amending RCW 86.26.007
2 and 86.26.050; reenacting and amending RCW 86.16.110; reenacting RCW
3 86.15.178; adding new sections to chapter 86.12 RCW; adding a new
4 section to chapter 76.09 RCW; adding a new section to chapter 86.15
5 RCW; 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; making an 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 A comprehensive flood control management plan shall be binding on
26 each city, town, and special district that is located within an area
27 included in the plan, except that the land use regulations and
28 restrictions on construction activities contained in a comprehensive

1 flood control management plan applicable to a city or town shall be
2 minimum standards that the city or town may exceed.

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

5 A county may create one or more advisory committees to assist in
6 the development of proposed comprehensive flood control management
7 plans and to provide general advice on flood problems. The advisory
8 committees may include city and town officials, officials of special
9 districts subject to chapter 85.38 RCW, and other interested persons.

10 NEW SECTION. **Sec. 5.** A new section is added to chapter 76.09 RCW
11 to read as follows:

12 Forest practices are subject to land clearing regulations adopted
13 under section 2 of this act.

14 **Sec. 6.** RCW 86.26.007 and 1986 c 46 s 1 are each amended to read
15 as follows:

16 The flood control assistance account is hereby established in the
17 state treasury. At the beginning of each biennium after June 30,
18 (~~(1985)~~) 1991, the state treasurer shall transfer from the general fund
19 to the flood control assistance account an amount of money which, when
20 combined with money remaining in the account from the previous
21 biennium, will equal (~~(four)~~) eight million dollars. Moneys in the
22 flood control assistance account may be spent only after appropriation
23 for purposes specified under this chapter.

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

1 **Sec. 7.** RCW 86.26.050 and 1988 c 36 s 64 are each amended to read
2 as follows:

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

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

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

25 No participation with a county or other municipal corporation for
26 flood control maintenance projects may occur unless the county engineer
27 of the county within which the flood control maintenance project is
28 located certifies that a comprehensive flood control management plan
29 has been completed and adopted by the appropriate local authority, or
30 is being prepared for all portions of the river basin or other area,

1 within which the project is located in that county, that are subject to
2 flooding with a frequency of one hundred years or less.

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

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 grant emergency hydraulic permits for the
21 repair and reconstruction of dikes, seawalls, and other flood control
22 improvements damaged during flooding occurring in November 1990.

23 NEW SECTION. **Sec. 12.** The sum of ten million dollars, or as
24 much thereof as may be necessary, is appropriated for the biennium
25 ending June 30, 1993, from the general fund to the department of
26 ecology to finance the emergency repair and reconstruction of dikes,

1 seawalls, and other flood control improvements damaged during flooding
2 occurring in November 1990.

3 NEW SECTION. **Sec. 13.** The following acts or parts of acts are
4 each repealed:

5 (1) RCW 86.15.040 and 1961 c 153 s 4;

6 (2) RCW 86.16.027 and 1987 c 109 s 51 & 1935 c 159 s 9;

7 (3) RCW 86.16.030 and 1987 c 109 s 52 & 1935 c 159 s 5;

8 (4) RCW 86.16.040 and 1987 c 109 s 54 & 1935 c 159 s 11;

9 (5) RCW 86.16.060 and 1987 c 109 s 55 & 1935 c 159 s 13;

10 (6) RCW 86.16.065 and 1987 c 109 s 56 & 1935 c 159 s 14;

11 (7) RCW 86.16.067 and 1987 c 109 s 57, 1985 c 469 s 86, & 1935 c
12 159 s 15;

13 (8) RCW 86.16.070 and 1987 c 109 s 58 & 1935 c 159 s 16;

14 (9) RCW 86.16.080 and 1987 c 109 s 59 & 1935 c 159 s 10;

15 (10) RCW 86.16.090 and 1987 c 109 s 60, 1939 c 85 s 2, & 1935 c 159
16 s 7; and

17 (11) RCW 86.16.170 and 1987 c 109 s 62 & 1973 c 75 s 3.

18 NEW SECTION. **Sec. 14.** This act is necessary for the immediate
19 preservation of the public peace, health, or safety, or support of the
20 state government and its existing public institutions, and shall take
21 effect immediately.