

HOUSE BILL REPORT

ESHB 2875

As Amended by the Senate

Title: An act relating to water quality.

Brief Description: Changing water quality provisions.

Sponsors: By House Committee on Agriculture & Ecology (originally sponsored by Representative Chandler).

Brief History:

Committee Activity:

Agriculture & Ecology: 1/31/96, 2/5/96 [DPS].

Floor Activity:

Passed House: 2/12/96, 59-36.

Senate Amended.

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Chandler, Chairman; Koster, Vice Chairman; Boldt; Clements; Delvin; Honeyford; Johnson; Mastin; Robertson and Schoesler, Assistant Ranking Minority Member.

Minority Report: Do not pass. Signed by 7 members: Representatives Chappell, Ranking Minority Member; Linville, Assistant Ranking Minority Member; R. Fisher; Murray; Ogden; Regala and Rust.

Staff: Rick Anderson (786-7114).

Background: The Puget Sound Water Quality Authority was created by the Legislature in 1985. The authority's principal purpose was to develop a comprehensive plan for the protection and clean-up of Puget Sound in a manner that coordinated the activities of the hundreds of local, regional, and state jurisdictions within the Puget Sound basin.

The authority is comprised of 11 members: nine citizen members appointed by the Governor, and the director of the Department of Ecology and the Public Lands Commissioner serving ex officio. Three of the citizen members are to represent cities, counties and tribal governments. The director of Department of Ecology chairs

the authority. The authority's 1993-1995 biennial operating budget was \$2,500,000, and it had approximately 20 full-time staff. It administered another \$1,700,000 in grants to local governments and citizen groups in that biennium.

The initial Puget Sound Water Quality Management Plan was adopted in 1986, and revised in 1989, 1991, and 1994. The plan contains numerous elements, addressing subjects such as nonpoint source pollution, municipal and industrial discharges, contaminated sediments, stormwater and combined sewer overflows, spill prevention and response, wetlands protection, research, and monitoring. The plan developed by the authority is to be implemented by appropriate state and local agencies subject to available funding.

Other duties of the authority include implementation of a Puget Sound long-term monitoring program (authorized in 1990); biennial reporting on the state of the sound, the status of plan implementation, and state and local actions affecting the sound; review of state agency budgets relating to Puget Sound; making recommendations to the Governor and Legislature; encouraging research on Puget Sound's water quality; and administering a public involvement and education program.

Originally scheduled for sunset in 1991, the 1990 Legislature reauthorized the authority until June 30, 1995. The reauthorizing legislation expanded the authority's membership, required its offices to be located in Olympia within the Department of Ecology, and clarified that the plan was to be implemented by appropriate agencies subject to available funding. The legislation also required the Governor's proposed biennial budget to identify Puget Sound funding levels, and directed the authority to prepare a strategy for implementing the plan that includes setting priorities. The Legislature also directed that the plan was to continue beyond the agency's sunset, with future plan implementation to be assigned by the Legislature.

The Legislative Budget Committee completed its latest sunset review of the authority in September, 1994. It recommended that the authority be continued and that the composition of the authority be changed to include an industrial discharger. It recommended legislative changes to focus the authority upon plan implementation, to de-emphasize plan revisions, and to omit unnecessary reporting requirements. The Legislative Budget Committee also recommended that the authority distribute funds which implement the plan as a means to improve agency compliance with the plan.

Summary of Bill: The Puget Sound Water Quality Authority is not reauthorized. An action team is created, consisting of the executives of 10 state agencies, a person from the Governor's office, and the presidents of the University of Washington and Washington State University. The person representing the Governor's office is the chair of the action team and is responsible for coordinating the overall activities of the action team and reporting to the Legislature. Each proposed work plan must be submitted to the Legislature by December 20 of each even-numbered year. Beginning

in 1998, the chair of the action team must submit a report to the Legislature evaluating the progress made on the current work plan and providing a cost itemization of the proposed work plan. The chair of the action team is also required to hold public hearings on the work plan.

The action team is responsible for a number of functions related to developing and implementing a biennial work plan and budget to protect and restore Puget Sound. In developing the work plan and budget, the action team must meet the following objectives:

- (1) use the plan elements of the 1994 Puget Sound Water Quality Management Plan to protect and restore Puget Sound;
- (2) consider the problems and priorities identified in local plans; and
- (3) coordinate the work plan activities with other relevant activities, including local watershed plans and volunteer watershed restoration activities.

The work plan and budget must include the following elements:

- (1) an identification and prioritization of federal, state, and local actions necessary to address the water pollution problems in five specified areas around Puget Sound as follows: Area #1 includes Island and San Juan Counties; Area #2 includes Skagit and Whatcom Counties; Area #3 includes Clallam and Jefferson Counties; Area #4 includes Snohomish, King, and Pierce Counties; and Area #5 includes Kitsap, Mason, and Thurston Counties;
- (2) two types of interagency teams, including at least one team to characterize local watersheds and at least one team, in each of the five specified areas, to provide technical assistance and to implement specific elements of the work plan;
- (3) funding to implement an ambient monitoring program for Puget Sound;
- (4) funding for local watershed action plans; and
- (5) funding to provide staff for the action team or administrative and oversight.

Local governments are required to implement local elements of the work plan subject to the availability of funding. All proceedings of the action team are subject to the Open Meetings Act.

The Puget Sound ambient monitoring program must include research and monitoring programs, including performance measures useful to the Governor, Legislature, and action team as a means to track the progress of restoring the health of Puget Sound.

By January 1, 1997, the Department of Ecology must adopt a rule, previously adopted by the Puget Sound Water Quality Authority, that establishes planning guidelines for local watershed restoration efforts. Prior to rule adoption, the action team must make

revisions to the existing rule based on three legislatively specified criteria. By July 1, 1997, the Department of Ecology must also adopt a rule relating to stormwater runoff management. The action team is to revise this rule based on nine legislatively specified criteria.

The action team must design a funding mechanism, using the agencies' existing budgets, to assist in the implementation of local watershed action plans. The action team must also evaluate existing fund sources that, with statutory modification, would be appropriate to fund the implementation of local plans.

Four sections of law, added during the 1990 reauthorization of the Puget Sound Water Quality Authority, are repealed. Two sections are recodified into a new chapter: a section creating the Puget Sound ambient monitoring program and a section clarifying that the Puget Sound Water Quality Management Plan is valid after termination of the authority.

An appropriation of \$100,000 is made from the general fund to hire the chair of the action team. One million dollars is appropriated from the water quality account for the Department of Ecology to provide grants to local jurisdictions for on-site sewage disposal projects. In making these grants, the department is to give preference to areas that have established shellfish protection districts.

EFFECT OF SENATE AMENDMENT(S): The Senate striking amendment reauthorizes the Puget Sound Water Quality Authority until 2001. The membership of the authority is changed to include specific interest groups and two (non-voting) legislators. The authority is given responsibility to develop the two-year workplan and budget, to conduct ambient monitoring, to report to the Legislature, and other duties assigned to the Puget Sound action team or the chair of the action team in the House version of the bill. The authority is directed to revise its 1994 management plan in July 2000. The striking amendment replaces the Puget Sound action team with a Puget Sound interagency advisory council. The council's functions are advisory to the authority and address state agency responsibilities only.

A provision in the House version of the bill to consolidate state agency funding for local watershed plans is changed to a study in the striking amendment. Two appropriations providing \$100,000 for the chair of the action team and \$1 million dollars for improving failing septic systems are deleted in the striking amendment. The striking amendment also deletes provisions requiring the action team to revise two existing agency rules. The striking amendment adds a provision establishing a marine waters protection trust account.

Appropriation: The sum of \$100,000 is appropriated from the general fund, and \$1,000,000 is appropriated from the water quality account.

Fiscal Note: Not requested.

Effective Date: Sections 3 and 4 contain an emergency clause and take effect immediately. The remaining sections take effect ninety days after adjournment of session in which bill is passed.

Testimony For: The substitute bill prioritizes implementation over planning. There is currently no accountability in terms of implementing the Puget Sound plan. The substitute bill provides technical assistance and funding to local governments, both key aspects to implementation. The substitute bill will provide better implementation of the authority's water quality plan. The determining factors of overall success will be the level of commitment provided by local governments, state agencies involved in the action team, the Governor's office, and the Legislature.

The substitute bill elevates the status of the plan by requiring the agency directors to coordinate work plan activities. Agencies need to be better coordinated. The substitute bill provides coordination by establishing a position in the Governor's office to oversee agency activities. The substitute bill directs the management team to consolidate funding for local government implementation of plans. This action will be very beneficial to local governments. The chair's authority over the management team should be clarified. Sections relating to the overall policy mission of the management team and stormwater management need to be clarified.

Testimony Against: The substitute bill does not provide for citizen involvement. The involvement of citizens, tribes, businesses, environmental groups, and other stakeholders is absolutely essential. Local governments need to have a specific role on the management team. Local governments are a key factor in implementing the plan. Indian tribes are co-managers of the fishery resources and should be included in Puget Sound cleanup efforts. Agency directors and university presidents are too busy to provide the necessary focus to the clean-up of Puget Sound. One agency should be responsible for Puget Sound. The substitute bill should allow agency directors and university presidents to send designees. Citizen outreach and education are essential to Puget Sound Health. Public involvement and education (PIE) grants allow for an effective non-regulatory approach. PIE grants have funded numerous technical assistance and education activities, including the development of school curricula.

The management team's mission of protecting and restoring Puget Sound needs to be clarified. The work plan in the substitute bill creates a time lag that needs to be addressed. The substitute bill does not specify the costs of implementing the plan. The expertise of the Puget Sound Water Quality Authority should not be lost.

Testified: Eric Johnson, Washington Public Ports Association; Carolyn Kelly, Skagit Conservation District; and Tim Smith, Pacific Coast Oyster Growers

Association (all in favor). Ann Aagaard, League of Women Voters; Lorna Ellestad, Ducks Unlimited, Scott Merriman, Washington Environmental Council; Jeff Parsons, People for Puget Sound; Bruce Wishart, Sierra Club; Hugh Spitzer, Puget Sound Water Quality Authority; Gary Lowe, WSAC; Roberta Gunn, Puget Soundkeeper Alliance; Bill Dewey, Taylor United, Inc.; Trent House, Association of Washington Business (all with comments). Steve Robinson, Northwest Indian Fish Community (not in favor).