
SUBSTITUTE SENATE BILL 6536

State of Washington

54th Legislature

1996 Regular Session

By Senate Committee on Ecology & Parks (originally sponsored by Senators Fraser, Fairley, McAuliffe, Spanel and Kohl)

Read first time 01/19/96.

1 AN ACT Relating to the protection and conservation of marine waters
2 in Washington state; adding new sections to chapter 90.70 RCW; adding
3 a new section to chapter 41.06 RCW; creating new sections; and
4 providing an effective date.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that all Washington
7 citizens derive significant benefits from Washington's marine waters.
8 From waterborne commerce to recreation to scenic enjoyment, the
9 protection of the state's coastal waters, the Strait of Juan de Fuca,
10 Puget Sound, and the lower Columbia river are vital to maintaining the
11 lifestyle of all Washingtonians and ensuring continued economic
12 vitality in this region. Residents of this region enjoy a way of life
13 centered around these marine waters, featuring accessible recreational
14 opportunities, world-class port facilities and water transportation
15 systems, commercial and recreational harvest of marine food resources,
16 shoreline-oriented lifestyles and residential land use, water-dependent
17 industries, tourism, irreplaceable aesthetics, and other activities,
18 all of which to some degree depend upon a clean and healthy marine
19 environment.

1 A rich and varied range of marine organisms, composing
2 interdependent, sensitive communal ecosystems, resides in these waters.
3 These resources are threatened by the impacts of human activities,
4 including the continued destruction and degradation of watersheds and
5 natural shoreline, wetland, and riparian habitat for fish and wildlife
6 caused by development; chemical contamination of marine sediments and
7 water caused by municipal and industrial discharges of pollution; and
8 fecal contamination of many acres of tideland shellfish beds caused by
9 surface water runoff from agricultural lands and failing septic
10 systems.

11 The legislature declares that the uses of Puget Sound, Grays
12 Harbor, lower Columbia river, Willapa Bay, and other marine resources
13 carry a custodial obligation for preserving them. The people of the
14 state have the unique opportunity to preserve these gifts of nature, an
15 understanding of the results of inattentive stewardship, the technical
16 knowledge needed for control of degradation, and the obligation to
17 undertake such control.

18 The legislature further finds that the large number of governmental
19 entities that now affect the water quality of the state's marine
20 waters, including Puget Sound, lower Columbia river, Grays Harbor, and
21 Willapa Bay, have diverse interests and limited jurisdictions that
22 cannot adequately address the cumulative, wide-ranging impacts that
23 contribute to the degradation of these waters. While emerging economic
24 and environmental challenges call for regional approaches, the state of
25 Washington is scheduled to terminate the Puget Sound water quality
26 authority, an agency charged with forging a comprehensive, coordinated
27 approach to protection of the marine waters of Puget Sound. Central to
28 successful implementation of regional strategies is state assistance to
29 the many local governments, businesses, and individuals who are
30 directly responsible for implementing water quality programs and
31 projects. Local water quality programs and budgets are certain to be
32 severely strained as the Puget Sound, lower Columbia river, and coastal
33 regions experience a near doubling of population over the next thirty
34 years.

35 Therefore, to meet these challenges, it is the intent of this act
36 to create the Washington marine waters protection trust to perform
37 duties for the long-term protection of Washington's marine waters. No
38 new regulatory authority is granted in this act. Instead, the
39 Washington marine waters protection trust shall carry out technical

1 assistance and coordination functions as specified in this act; provide
2 assistance for private and public actions for the protection and
3 restoration of marine waters; and ensure effective implementation of
4 existing laws and rules to protect and restore the marine waters of the
5 state of Washington.

6 NEW SECTION. **Sec. 2.** Unless the context clearly requires
7 otherwise, the definitions in this section apply throughout this
8 section and sections 3 through 10 of this act.

9 (1) "Puget Sound" includes Puget Sound, the straits adjoining the
10 United States-Canada border, and to the extent that they affect water
11 quality and fish and wildlife species in Puget Sound, the watersheds
12 flowing into Puget Sound.

13 (2) "Grays Harbor" includes Grays Harbor and to the extent that
14 they affect water quality and fish and wildlife species in Grays
15 Harbor, the watersheds flowing into Grays Harbor.

16 (3) "Willapa Bay" includes Willapa Bay and to the extent that they
17 affect water quality and fish and wildlife species in Willapa Bay, the
18 watersheds flowing into Willapa Bay.

19 (4) "Lower Columbia river" includes the portion of the Columbia
20 river downstream from the Bonneville dam and to the extent that they
21 affect water quality and fish and wildlife species in the Columbia
22 river estuary, the watersheds within Washington state flowing into that
23 portion of the Columbia river.

24 (5) "Marine waters" means all waters of the state under tidal
25 influence, and including the lower Columbia river downstream from the
26 Bonneville dam.

27 NEW SECTION. **Sec. 3.** (1) The goals of this chapter are to protect
28 the state's marine waters by restoring and maintaining:

- 29 (a) Clean water and sediment quality;
30 (b) Healthy, diverse, and sustainable native fish and wildlife
31 populations; and
32 (c) Sustainable and safe recreational, commercial, and traditional
33 uses of the shellfish, fish, wildlife, and scenic resources of the
34 marine waters of the state.

35 (2) These goals shall be achieved by:

- 36 (a) Eliminating toxic, disease-causing and other contamination of
37 marine waters;

- 1 (b) Cleaning up contaminated sediments to levels that do not harm
- 2 living organisms;
- 3 (c) Protecting and restoring fish and wildlife habitat;
- 4 (d) Preventing spills of oil and other harmful substances; and
- 5 (e) Taking other actions necessary to achieve these goals.

6 NEW SECTION. **Sec. 4.** (1) There is established the marine waters
7 protection trust composed of thirteen members. Eleven members shall be
8 appointed by the governor and confirmed by the senate. In addition,
9 the commissioner of public lands or the commissioner's designee and the
10 director of the department of ecology or the director's designee shall
11 serve as ex officio voting members. The directors or their designees
12 of the departments of health, fish and wildlife, and agriculture shall
13 serve as ex officio nonvoting members. Of the appointed members, one
14 shall be a representative of counties, one shall be a representative of
15 cities, and one shall be a representative of Indian tribes. In making
16 these appointments to the trust, the governor shall seek balanced
17 geographical representation from all marine water regions and include
18 representation of the variety of commercial and noncommercial
19 interested parties concerned about marine water quality. In making
20 appointments to represent counties and cities, the governor shall give
21 strong consideration to nominations made by the Washington state
22 association of counties and the association of Washington cities.
23 Appointments to represent counties and cities may be either current or
24 former elected local government officials.

25 (2) Except as provided in this subsection, members shall serve
26 three-year terms. Of the initial members appointed to the trust, five
27 shall serve for two years, three shall serve for three years, and three
28 shall serve for four years. Thereafter, members shall be appointed to
29 three-year terms. Members may be removed by the governor only for
30 cause. Vacancies shall be selected in the same manner as the member
31 being replaced. Members shall not be compensated except for specific
32 days worked, as provided in RCW 43.03.250, and for travel expenses as
33 provided in RCW 43.03.050 and 43.03.060.

34 (3) The trust members shall select a chair from among its members,
35 who shall serve as chair for such period as the trust determines.

36 (4) An executive director, appointed by and serving at the pleasure
37 of the governor, shall be a full-time employee responsible for
38 administering all the trust's functions and carrying out the policy

1 direction of the trust, including the hiring and firing of staff, and
2 shall be compensated as determined by the governor, subject to RCW
3 43.03.040. The executive director shall not be a member of the trust.

4 (5) Not more than four employees of the trust may be exempt from
5 chapter 41.06 RCW.

6 NEW SECTION. **Sec. 5.** To achieve the goals of section 3 of this
7 act and perform the other responsibilities assigned by this chapter,
8 the trust shall have the following powers and duties:

9 (1) The trust shall coordinate the implementation of marine waters
10 protection plans for Puget Sound, Grays Harbor, and Willapa Bay, as
11 provided in section 6 of this act.

12 (2) The trust shall offer recommendations, including
13 recommendations on coordination with the protection plans for Puget
14 Sound, Willapa Bay, and Grays Harbor, on the protection plan for the
15 lower Columbia river being developed through the bi-state water quality
16 program and any succeeding entity.

17 (3) The trust shall monitor and report on the health of these
18 estuaries, and educate and involve the public in their protection.

19 (4) The trust shall provide a comprehensive program of technical
20 assistance to all local governments, tribal governments, businesses,
21 and individuals implementing water quality programs that may impact
22 marine waters.

23 (5) The trust shall perform coordination, public education and
24 involvement, and priority-setting functions relating to implementation
25 of marine water protection plans in consultation with affected parties.

26 (6) The trust shall be the principal state agency to develop cross-
27 border marine waters protection programs with the province of British
28 Columbia and the federal governments of Canada and the United States
29 regarding the shared waters of the Strait of Juan de Fuca, Georgia
30 Basin, and Puget Sound. In carrying out this function, the trust shall
31 provide assistance in carrying out the state's responsibilities under
32 the British Columbia/Washington state environmental cooperation accord
33 and in similar water quality-related cross-border accords.

34 NEW SECTION. **Sec. 6.** (1) The marine waters protection plan for
35 Puget Sound is the existing Puget Sound water quality management plan,
36 adopted by the Puget Sound water quality authority in 1994, which shall
37 be amended by the marine waters protection trust to incorporate

1 specific achievement objectives for each year, and shall be amended by
2 the trust as necessary to achieve the goals of this chapter.

3 (2) No later than July 1, 1998, the marine waters protection trust
4 shall adopt initial marine waters protection plans to achieve the goals
5 specified in section 3 of this act for Grays Harbor and Willapa Bay.
6 Each plan shall be developed in consultation with marine waters
7 protection advisory committees convened for this purpose and as needed
8 for consultation in the subsequent development of plan amendments and
9 the establishment of priorities for funding and activities under
10 subsection (3) of this section. These committees shall exist
11 temporarily to serve only the purpose for which they are convened and
12 shall be composed of representatives of cities, counties, tribes, and
13 the public from the counties that include watersheds flowing into the
14 estuary for which the plan is developed, and with representatives of
15 the departments of natural resources, fish and wildlife, health,
16 agriculture, and ecology. Two members of the trust shall serve on each
17 regional advisory committee, and shall be selected by the trust
18 members.

19 (3) The trust may amend the plans as necessary to achieve the goals
20 specified in section 3 of this act. The trust shall amend the plans as
21 necessary to incorporate specific achievement objectives for the
22 ensuing year and shall establish the top priorities for funding and
23 activities that will make progress toward achieving the protection
24 goals for Puget Sound, Grays Harbor, and Willapa Bay. The trust shall
25 assist the office of financial management in developing state budget
26 recommendations for funding of the plans and for state agency
27 implementation of plan responsibilities.

28 (4) The trust shall make recommendations on the lower Columbia
29 river protection plan concerning amendments and funding priorities, and
30 shall evaluate progress in achieving the goals specified in section 3
31 of this act.

32 (5) The plans developed under this section shall build upon and
33 integrate existing water quality, land use, capital facilities, and
34 other plans applicable to the marine waters area.

35 (6) Following initial adoption of the plans, the focus of the trust
36 shall be upon implementing the plans.

37 NEW SECTION. **Sec. 7.** In order to carry out its responsibilities
38 under this chapter, the trust may:

1 (1) Enter into, amend, and terminate contracts, real estate leases,
2 and other agreements with individuals, corporations, or research
3 institutions for the purposes of this chapter;

4 (2) Receive such gifts, grants, and endowments, in trust or
5 otherwise, for the use and benefit of the purposes of the trust. The
6 trust may expend the same or any income therefrom according to the
7 terms of the gifts, grants, or endowments;

8 (3) Conduct studies and research relating to the state's marine
9 water quality;

10 (4) Obtain information relating to marine water quality from other
11 state and local agencies, as well as from federal and private sources;

12 (5) Conduct appropriate public hearings and otherwise seek to
13 broadly disseminate information concerning marine water quality;

14 (6) Receive funding from other public agencies;

15 (7) Prepare a biennial budget request for consideration by the
16 governor and the legislature;

17 (8) Adopt rules under chapter 34.05 RCW as necessary to implement
18 the purposes and intent of this chapter; and

19 (9) Appoint ad hoc advisory committees as may be necessary to
20 implement this chapter.

21 NEW SECTION. **Sec. 8.** (1) All state funds appropriated to carry
22 out this chapter, including the implementation of marine waters
23 protection plans, shall be appropriated to the trust for disbursement
24 according to the plans' established priorities.

25 (2) Of the total moneys available for appropriation from the water
26 quality account on July 1st of each odd-numbered year, the legislature
27 shall make the following appropriations for the biennium commencing on
28 such date:

29 (a) One million five hundred thousand dollars to the marine waters
30 protection trust to support education, involvement, and stewardship
31 projects carried out by business and trade associations, local and
32 tribal governments, conservation districts, community and environmental
33 organizations, schools and school districts, community colleges,
34 colleges, and universities; and

35 (b) At least twenty-five percent to the marine waters protection
36 trust and to local and state governmental entities to implement marine
37 waters protection plans under this chapter.

1 (3) The legislature shall appropriate such additional amounts to
2 the trust from the general fund and other funds as are necessary for
3 the trust to fully carry out its responsibilities and to fully
4 implement the marine waters protection plans required under this
5 chapter.

6 NEW SECTION. **Sec. 9.** The marine waters protection trust is
7 accountable to the public for restoring and maintaining the health of
8 Puget Sound, Grays Harbor, lower Columbia river, and Willapa Bay. The
9 trust shall produce an annual state of the estuaries report identifying
10 the results of scientific monitoring and progress toward achieving the
11 protection goals for the state's marine waters and identifying the
12 steps necessary to address problems and lack of sufficient progress.
13 Information about problems and progress shall be sought from the public
14 and reflected in the state of the estuaries report. The trust shall
15 sponsor an annual conference or workshop where all interested parties
16 will have the opportunity to share information about the status of
17 efforts to protect and restore marine waters and to make
18 recommendations to the trust for future actions. State and local
19 government entities identified in the plans shall carry out the tasks
20 identified in those plans to the degree funding allows, and are
21 prohibited from any actions inconsistent with the plans or detrimental
22 to achieving the goals specified in this chapter.

23 NEW SECTION. **Sec. 10.** (1) The marine waters protection trust
24 shall ensure implementation and coordination of the Puget Sound ambient
25 monitoring program, which includes:

26 (a) Developing a baseline and examining differences among areas of
27 Puget Sound, for environmental conditions, natural resources, and
28 contaminants in sediments and marine life, against which future changes
29 can be measured;

30 (b) Taking measurements relating to specific program elements
31 identified in the plan;

32 (c) Measuring the progress of the ambient monitoring programs
33 implemented under the plan;

34 (d) Providing a permanent record of significant natural and human-
35 caused changes in key environmental indicators in Puget Sound;

36 (e) Supporting research on Puget Sound; and

1 (f) Implementing the program, consistent with the marine waters
2 protection plan for Puget Sound.

3 (2) Beginning in 1997, the trust shall develop and ensure
4 implementation and coordination of ambient monitoring plans for other
5 marine waters of the state that include the same activities as those
6 required in this section for the Puget Sound ambient monitoring plan.

7 NEW SECTION. **Sec. 11.** A new section is added to chapter 41.06 RCW
8 to read as follows:

9 In addition to the exemptions under RCW 41.06.070, the provisions
10 of this chapter shall not apply in the marine waters protection trust
11 to up to four employees of the trust.

12 NEW SECTION. **Sec. 12.** (1) All powers, duties, and functions of
13 the Puget Sound water quality authority pertaining to the cleanup and
14 protection of Puget Sound are transferred to the marine waters
15 protection trust. All references to the executive director or the
16 Puget Sound water quality authority in the Revised Code of Washington
17 shall be construed to mean the executive director or the marine waters
18 protection trust when referring to the functions transferred in this
19 section.

20 (2)(a) All reports, documents, surveys, books, records, files,
21 papers, or written material in the possession of the authority
22 pertaining to the powers, functions, and duties transferred shall be
23 delivered to the custody of the trust. All cabinets, furniture, office
24 equipment, motor vehicles, and other tangible property employed by the
25 authority in carrying out the powers, functions, and duties transferred
26 shall be made available to the trust. All funds, credits, or other
27 assets held in connection with the powers, functions, and duties
28 transferred shall be assigned to the trust.

29 (b) Any appropriations made to the authority for carrying out the
30 powers, functions, and duties transferred shall, on the effective date
31 of this section, be transferred and credited to the trust.

32 (c) Whenever any question arises as to the transfer of any
33 personnel, funds, books, documents, records, papers, files, equipment,
34 or other tangible property used or held in the exercise of the powers
35 and the performance of the duties and functions transferred, the
36 director of financial management shall make a determination as to the
37 proper allocation and certify the same to the state agencies concerned.

1 (3) All employees classified under chapter 41.06 RCW, the state
2 civil service law, are assigned to the trust to perform their usual
3 duties upon the same terms as formerly, without any loss of rights,
4 subject to any action that may be appropriate thereafter in accordance
5 with the laws and rules governing state civil service.

6 (4) All rules and all pending business before the authority
7 pertaining to the powers, functions, and duties transferred shall be
8 continued and acted upon by the trust. All existing contracts and
9 obligations shall remain in full force and shall be performed by the
10 trust.

11 (5) The transfer of the powers, duties, functions, and personnel of
12 the authority shall not affect the validity of any act performed before
13 the effective date of this section.

14 (6) If apportionments of budgeted funds are required because of the
15 transfers directed by this section, the director of financial
16 management shall certify the apportionments to the agencies affected,
17 the state auditor, and the state treasurer. Each of these shall make
18 the appropriate transfer and adjustments in funds and appropriation
19 accounts and equipment records in accordance with the certification.

20 (7) Nothing contained in this section may be construed to alter any
21 existing collective bargaining unit or the provisions of any existing
22 collective bargaining agreement until the agreement has expired or
23 until the bargaining unit has been modified by action of the personnel
24 board as provided by law.

25 NEW SECTION. **Sec. 13.** This act shall be known as the marine
26 waters protection act.

27 NEW SECTION. **Sec. 14.** Sections 2 through 10 of this act are each
28 added to chapter 90.70 RCW.

29 NEW SECTION. **Sec. 15.** The provisions of this act are to be
30 liberally construed to protect the marine environment and to effectuate
31 the policies and purposes of this act. In the event of conflict
32 between the provisions of this act and any other act, the provisions of
33 this act shall govern.

34 NEW SECTION. **Sec. 16.** If any provision of this act or its
35 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

3 NEW SECTION. **Sec. 17.** This act shall take effect July 1, 1996.

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