

---

SENATE BILL 6536

---

State of Washington                      54th Legislature                      1996 Regular Session

By Senators Fraser, Fairley, McAuliffe, Spanel and Kohl

Read first time 01/17/96. Referred to Committee on Ecology & Parks.

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 quality of life 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 clean and healthy marine  
19 resources.

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 widespread 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 assume the  
37 duties of the Puget Sound water quality authority and to carry out  
38 additional duties for the long-term protection of Washington's marine  
39 waters. No new regulatory authority is granted in this act. Instead,

1 the Washington marine waters protection trust shall carry out technical  
2 assistance and coordination functions as specified in this act, and  
3 provide leadership in guiding private and public actions for the  
4 protection and restoration of marine waters.

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

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

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

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

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

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

26 NEW SECTION. **Sec. 3.** The state shall achieve the following goals  
27 for the restoration and protection of Puget Sound, lower Columbia  
28 river, Grays Harbor, Willapa Bay, and other marine waters:

29 (1) An end to toxic contamination of water and sediments;

30 (2) Cleanup and protection of shellfish harvest areas to permit  
31 safe harvest and consumption; and

32 (3) Protection and restoration of salmon and other marine fish and  
33 wildlife and their habitats.

34 NEW SECTION. **Sec. 4.** (1) There is established the marine waters  
35 protection trust composed of thirteen members. Eleven members shall be  
36 appointed by the governor and confirmed by the senate. In addition,

1 the commissioner of public lands or the commissioner's designee and the  
2 director of the department of ecology or the director's designee shall  
3 serve as ex officio voting members. Of the appointed members, at least  
4 two shall be representatives of counties, at least two shall be  
5 representatives of cities, and two shall be representatives of Indian  
6 tribes. In making these appointments, the governor shall seek balanced  
7 geographical representation from all marine water regions and include  
8 representation of the variety of interested parties concerned about  
9 marine water quality. In making appointments to represent counties and  
10 cities, the governor shall give strong consideration to nominations  
11 made by the Washington state association of counties and the  
12 association of Washington cities. Appointments to represent counties  
13 and cities may be either current or former elected local government  
14 officials.

15 (2) Except as provided in this subsection, members shall serve  
16 three-year terms. Of the initial members appointed to the trust, five  
17 shall serve for two years, three shall serve for three years, and three  
18 shall serve for four years. Thereafter, members shall be appointed to  
19 three-year terms. Members may be removed by the governor only for  
20 cause. Vacancies shall be selected in the same manner as the member  
21 being replaced. Members shall not be compensated except for specific  
22 days worked, as provided in RCW 43.03.250, and for travel expenses as  
23 provided in RCW 43.03.050 and 43.03.060.

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

26 (4) An executive director, appointed by and serving at the pleasure  
27 of the governor, shall be a full-time employee responsible for  
28 administering all the trust's functions and carrying out the policy  
29 direction of the trust, including the hiring and firing of staff, and  
30 shall be compensated as determined by the governor, subject to RCW  
31 43.03.040. The executive director shall not be a member of the trust.

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

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

1 (1) The trust shall coordinate the implementation of marine waters  
2 protection plans for Puget Sound, lower Columbia river, Grays Harbor,  
3 and Willapa Bay, as provided in section 6 of this act.

4 (2) The trust shall monitor and report on the health of these  
5 estuaries, and educate and involve the public in their protection.

6 (3) The trust shall provide a comprehensive program of technical  
7 assistance to all local governments, tribal governments, businesses,  
8 and individuals implementing water quality programs that may impact  
9 marine waters. The trust shall build upon programs developed by the  
10 Puget Sound water quality authority.

11 (4) The trust shall perform coordination, public education and  
12 involvement, and priority-setting functions relating to implementation  
13 of the Puget Sound water quality management plan.

14 (5) The trust shall be the principal state agency to develop cross-  
15 border programs with the province of British Columbia and the federal  
16 governments of Canada and the United States regarding the shared waters  
17 of the Strait of Juan de Fuca, Georgia Basin, and Puget Sound. In  
18 carrying out this function, the trust shall provide assistance in  
19 carrying out the state's responsibilities under the British  
20 Columbia/Washington state environmental cooperation accord and in  
21 similar water quality-related cross-border accords.

22 (6) The trust may coordinate with the state of Oregon in addressing  
23 bi-state water quality needs on the lower Columbia river.

24 (7) The trust shall review and make recommendations to the governor  
25 and the legislature upon state actions needed to address particular  
26 water quality concerns of the northern straits area of Puget Sound.

27 (8) The trust shall review and make recommendations upon whether  
28 the current state moratorium upon offshore oil exploration shall be  
29 made permanent.

30 NEW SECTION. **Sec. 6.** (1) The marine waters protection plan for  
31 Puget Sound is the existing Puget Sound water quality management plan,  
32 adopted by the Puget Sound water quality authority in 1994, which shall  
33 be amended by the marine waters protection trust to incorporate  
34 specific achievement objectives for each year, and may be amended by  
35 the trust as necessary to achieve the goals of this section.

36 (2) No later than July 1, 1998, the marine waters protection trust  
37 shall adopt initial marine waters protection plans to achieve the goals  
38 specified in section 3 of this act for Grays Harbor, lower Columbia

1 river, and Willapa Bay. Each plan shall be developed in consultation  
2 with regional water quality advisory councils composed of  
3 representatives of cities, counties, tribes, and the public from the  
4 counties that include watersheds flowing into the estuary for which the  
5 plan is developed, and with representatives of the departments of  
6 natural resources, fish and wildlife, and ecology. In addition, two  
7 members of the trust shall serve on each regional water quality  
8 advisory committee, and shall be selected by the trust members.

9 (3) Every year after initial plans have been adopted, the trust may  
10 amend the plans as necessary to achieve the goals specified in section  
11 3 of this act. The trust shall amend the plans as necessary to  
12 incorporate specific achievement objectives for the ensuing year and  
13 shall establish the top priorities for funding and activities that will  
14 make progress toward achieving the protection goals for Puget Sound,  
15 Grays Harbor, lower Columbia river, and Willapa Bay. The trust shall  
16 assist the office of financial management in developing state budget  
17 recommendations for funding of the plans and in-state agency  
18 implementation of plan responsibilities.

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

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

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

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

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

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

34 (6) Receive funding from other public agencies;

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

37 (8) Adopt rules under chapter 34.05 RCW as necessary to implement  
38 the purposes and intent of this chapter.

1        NEW SECTION.    **Sec. 8.**    (1) Of the total moneys available for  
2 appropriation from the water quality account on July 1st of each odd-  
3 numbered year, the legislature shall make the following appropriations  
4 for the biennium commencing on such date:

5        (a) . . . percent to the marine waters protection trust for  
6 education and involvement projects carried out by nongovernmental  
7 organizations; and

8        (b) . . . percent from the marine waters protection trust to carry  
9 out its responsibilities under this chapter.

10        (2) The legislature shall appropriate such additional amounts to  
11 the trust from the general fund and other funds as are necessary for  
12 the trust to fully carry out its responsibilities under this chapter.

13        NEW SECTION.    **Sec. 9.**    The marine waters protection trust is  
14 accountable to the public for restoring and maintaining the health of  
15 Puget Sound, Grays Harbor, lower Columbia river, and Willapa Bay.  
16 There shall be an annual state of the estuaries report identifying the  
17 results of scientific monitoring and progress toward achieving the  
18 protection goals for the state's marine waters and identifying the  
19 steps necessary to address problems and lack of sufficient progress.  
20 Information about problems and progress shall be sought from the public  
21 and reflected in the state of the estuaries report.    Agencies  
22 identified in the plans shall carry out the tasks identified in those  
23 plans to the degree funding allows, and are prohibited from any actions  
24 inconsistent with the plans or detrimental to achieving the goals  
25 specified in this section.

26        NEW SECTION.    **Sec. 10.**    The marine waters protection trust shall  
27 ensure implementation and coordination of the Puget Sound ambient  
28 monitoring program, which includes:

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

33        (2) Taking measurements relating to specific program elements  
34 identified in the plan;

35        (3) Measuring the progress of the ambient monitoring programs  
36 implemented under the plan;

- 1 (4) Providing a permanent record of significant natural and human-  
2 caused changes in key environmental indicators in Puget Sound;  
3 (5) Supporting research on Puget Sound; and  
4 (6) Implementing the program, as specified in the Puget Sound water  
5 quality management plan.

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

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

11 NEW SECTION. **Sec. 12.** This act shall be known as the marine  
12 waters protection act.

13 NEW SECTION. **Sec. 13.** Sections 2 through 10 of this act are each  
14 added to chapter 90.70 RCW.

15 NEW SECTION. **Sec. 14.** The provisions of this act are to be  
16 liberally construed to protect the marine environment and to effectuate  
17 the policies and purposes of this act. In the event of conflict  
18 between the provisions of this act and any other act, the provisions of  
19 this act shall govern.

20 NEW SECTION. **Sec. 15.** If any provision of this act or its  
21 application to any person or circumstance is held invalid, the  
22 remainder of the act or the application of the provision to other  
23 persons or circumstances is not affected.

24 NEW SECTION. **Sec. 16.** This act shall take effect July 1, 1996.

--- END ---