

SENATE BILL REPORT

SB 5190

As Reported By Senate Committee On:
Environmental Quality & Water Resources, February 12, 1999

Title: An act relating to lakes management.

Brief Description: Regarding lakes management.

Sponsors: Senators Swecker, Fraser, Rasmussen, T. Sheldon and Winsley.

Brief History:

Committee Activity: Environmental Quality & Water Resources: 2/4/99, 2/12/99 [DPS].

Brief Summary of Bill

- Lake management service areas are authorized as special districts.
- Lake management districts may exist for more than 10 years and may increase rates and charges beyond 110 percent if a public hearing is held.
- An aquatic plant management permit program is established.

SENATE COMMITTEE ON ENVIRONMENTAL QUALITY & WATER RESOURCES

Majority Report: That Substitute Senate Bill No. 5190 be substituted therefor, and the substitute bill do pass.

Signed by Senators Fraser, Chair; Eide, Vice Chair; Morton, Honeyford, Jacobsen, McAuliffe and Swecker.

Staff: Richard Ramsey (786-7412)

Background: The Joint Select Committee on Lake Health's 1998 final report included recommendations to: (1) revise existing statutes governing Special Districts (Chapter 85.38 RCW) to clarify that districts may be created solely for lake management purposes; (2) revise existing statutes governing Lake Management Districts (Chapter 36.61 RCW) to eliminate the ten-year limit on district existence; and (3) direct the Departments of Agriculture and Ecology to develop an aquatic plant management permit program.

(1) Special Districts. In 1985, legislation was passed to clarify and standardize the laws related to various special districts. The Special District Act provides uniform procedures for the creation, elections, and operations of various special districts.

Local governments attempting to form a special district to conduct lake management activities have been limited by the lack of enabling legislation for a lake district.

(2) Lake Management Districts. Counties and cities are authorized to create lake management districts to finance various lake improvements and maintenance activities. A lake management district can be created for a period of up to ten years.

It has been suggested that the ten-year time limit for lake management districts and the limitation to 110 percent of the original assessment decreases the flexibility and utility of lake management districts.

(3) Aquatic Plant Management. Aquatic plant removal or control may be regulated by the Department of Ecology, Department of Fish and Wildlife, or Department of Agriculture, depending on the control method.

Chemical control of aquatic plants and weeds is authorized by the Department of Ecology through a "short-term modification of water quality standards." Short-term modifications are issued for activities that will cause a temporary reduction of water quality conditions below the state water quality standards.

Mechanical aquatic plant control methods, such as bottom barriers, cutting, or harvesting, require a Hydraulic Project Approval from the Department of Fish and Wildlife. Biological control methods may require a special permit from the Department of Agriculture or the Department of Fish and Wildlife.

Summary of Substitute Bill: Lake management service areas are authorized and the definition of a special district is amended to include a lake management service area. Lake management service areas may provide various services and facilities related to lake management, improving water quality and protecting and enhancing fish habitat.

The lake management service area is governed by a three-member governing body. The provisions of the Special District Act relating to election of members, district formation, filing of bonds, adoption of budgets and assessments, issuance of bonds, and annexations apply to lake management service areas.

The ten-year maximum duration for lake management districts is deleted. A county or city legislative authority may increase the special assessments or rates and charges for the lake management district beyond 110 percent by holding a new public hearing, with notice of the hearing sent to each property owner in the district.

An aquatic plant management permit is required for any person wishing to control or eradicate aquatic plants, unless the activity is specifically exempt. Aquatic plants may include noxious weeds, nuisance or beneficial plants, or algae.

The Department of Ecology must develop rules to implement the aquatic plant management permit program. The rules must be developed jointly with the Department of Agriculture, and in consultation with the Departments of Natural Resources, Fish and Wildlife, Health, and the State Noxious Weed Board. The rules must be based on the principles of integrated pest management.

The permit program must include a tiered approach to aquatic plant management. At a minimum, the permit program must provide an expedited permit for lakes below five acres

in size that meet certain criteria; provide procedures for use of site-specific information; allow pilot use of state-registered pesticides; and develop general permits for noxious weed control on a statewide or regional basis. These tiers may be expanded to address other circumstances.

Substitute Bill Compared to Original Bill: The rules implementing the aquatic plant management program are expanded to include criteria developed by the Department of Fish and Wildlife for the protection of fish. Permit requirements for mechanical controls are exempt if the applicant complies with the Department of Fish and Wildlife's pamphlet "Aquatic Plants and Fish." The requirement to update the environmental impact statement is removed. The provision for a 2,4-D pilot project is removed. The Department of Ecology's authority for making short-term modifications of water quality standards associated with aquatic herbicide use is clarified.

Appropriation: None.

Fiscal Note: Requested on January 15, 1999.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Governance changes are needed to better manage lakes. A permit program is needed and the EIS should be updated. Pilot projects are an effective way to gather information for evaluating herbicides. The risk assessment should be subject to peer review by toxicologists and chemists. An exemption should be considered for the Department of Fish and Wildlife program "Aquatic Plants and Fish." A date of completion should be established for the new EIS in addition to date of termination of the effectiveness for the 1992 EIS.

Testimony Against: The EIS is an inappropriate and ineffective means to evaluate pesticides. The changes in Section 19 appear to go beyond the scope of the bill.

Testified: Senator Shirley Winsley (pro); Senator Dan Swecker (pro); Terry McNabb, Resource Management Inc. (pro); Tom Lowry, Lake Steilacoom (pro); Peter Birch, Department of Fish and Wildlife (budget concerns); Dick Wallace, Department of Ecology (budget concerns); Ann Wick, Department of Agriculture (wording concerns); Warren Perkins, Washington State Lake Protection Association (pro).