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HOUSE BILL 2514

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State of Washington                      58th Legislature                      2004 Regular Session

By Representatives Upthegrove, Jarrett and Chase

Read first time 01/15/2004. Referred to Committee on Local Government.

1            AN ACT Relating to defining and clarifying best available science;  
2 amending RCW 36.70A.172; and creating a new section.

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

4            NEW SECTION.    **Sec. 1.**    The intent of the legislature is to assist  
5 local governments, state agencies, and citizens in planning under the  
6 growth management act.    The legislature does not intend to change the  
7 best available science requirement or the state procedural criteria  
8 adopted to implement that requirement.

9            **Sec. 2.**    RCW 36.70A.172 and 1995 c 347 s 105 are each amended to  
10 read as follows:

11            (1) In designating and protecting critical areas under this  
12 chapter, counties and cities shall include the best available science  
13 in developing policies and development regulations to protect the  
14 functions and values of critical areas.    In addition, counties and  
15 cities shall give special consideration to conservation or protection  
16 measures necessary to preserve or enhance anadromous fisheries.

17            (2) If it determines that advice from scientific or other experts  
18 is necessary or will be of substantial assistance in reaching its

1 decision, a growth management hearings board may retain scientific or  
2 other expert advice to assist in reviewing a petition under RCW  
3 36.70A.290 that involves critical areas.

4 (3) "Best available science" is defined as follows:

5 (a) "Best available" in this context means science, as defined  
6 below, which applies to the physical and biological setting under  
7 consideration and is practically and economically feasible to be  
8 implemented, as shown by the evidence in the record. A city or county  
9 need not conduct or commission new scientific studies to fill gaps in  
10 the existing scientific information.

11 (b) "Science" means a process involving sound methods to reach  
12 conclusions to understand the workings of the natural world. The  
13 characteristics of a sound scientific process include, as applicable,  
14 (i) findings that have been critically reviewed by qualified scientific  
15 experts in the field; (ii) methods that are standard in the field or  
16 peer reviewed; (iii) conclusions that are logical and the inferences  
17 drawn from those conclusions reasonable given the data and methods;  
18 (iv) data that has been analyzed using standard or peer reviewed  
19 quantitative or statistical methods; (v) data and findings that are  
20 considered in their proper physical and biological context; and (vi)  
21 assumptions, analytical techniques, and conclusions that are referenced  
22 to relevant, credibly sound scientific literature.

23 (4) Not all sources of sound scientific information incorporate all  
24 of the generally accepted characteristics of science, as defined in  
25 subsection (3)(b) of this section. However, the more characteristics  
26 that are incorporated into the process, the more sound and reliable the  
27 conclusions are likely to be. The broader the range of valid science,  
28 the broader the range of discretion allowed to a city or county. If  
29 local governments choose within that range, their decision is valid.

30 (5) Local governments may employ innovative approaches to protect  
31 critical areas when such approaches include best available science, as  
32 defined in subsection (3)(b) of this section.

33 (6) Local governments may employ experimental approaches to protect  
34 critical areas. However, if a local government bases a management  
35 decision regarding a critical area on information that does not satisfy  
36 all of the characteristics of science, or on conflicting scientific  
37 information, the local government must minimize risk and employ  
38 monitoring and adaptive management to learn whether the approach used

1 is adequately protecting the functions and values of that critical  
2 area, and adjust the approach as necessary to ensure protection of  
3 critical area functions and values.

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