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**SUBSTITUTE SENATE BILL 5355**

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**State of Washington                      52nd Legislature                      1991 Regular Session**

**By** Senate Committee on Environment & Natural Resources (originally sponsored by Senators Talmadge, Skratek and Metcalf).

Read first time March 1, 1991.

1            AN ACT Relating to protecting Puget Sound and other water bodies of  
2 Washington; amending RCW 36.70A.070 and 43.21B.300; reenacting and  
3 amending RCW 70.146.060; adding a new section to chapter 90.70 RCW;  
4 adding new sections to chapter 43.20 RCW; adding a new section to  
5 chapter 90.48 RCW; creating a new section; making an appropriation; and  
6 providing an effective date.

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

8            NEW SECTION.    **Sec. 1.** A new section is added to chapter 90.70 RCW  
9 to read as follows:

10           Each element of the plan adopted by the authority shall contain an  
11 analysis of the activities of all state agencies and their effects on  
12 the goals of that program. State agencies shall manage state-owned  
13 lands and resources and carry out other state agency functions in a  
14 manner to protect and enhance Puget Sound.

1       **Sec. 2.** RCW 36.70A.070 and 1990 1st ex.s. c 17 s 7 are each  
2 amended to read as follows:

3       The comprehensive plan of a county or city that is required or  
4 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,  
5 and descriptive text covering objectives, principles, and standards  
6 used to develop the comprehensive plan. The plan shall be an  
7 internally consistent document and all elements shall be consistent  
8 with the future land use map. A comprehensive plan shall be adopted  
9 and amended with public participation as provided in RCW 36.70A.140.

10       Each comprehensive plan shall include a plan, scheme, or design for  
11 each of the following:

12       (1) A land use element designating the proposed general  
13 distribution and general location and extent of the uses of land, where  
14 appropriate, for agriculture, timber production, housing, commerce,  
15 industry, recreation, open spaces, public utilities, public facilities,  
16 and other land uses. The land use element shall include population  
17 densities, building intensities, and estimates of future population  
18 growth. The land use element shall provide for protection of the  
19 quality and quantity of ground water used for public water supplies.  
20 Where applicable, the land use element shall review drainage, flooding,  
21 and storm water run-off in the area and nearby jurisdictions and  
22 provide guidance for corrective actions to mitigate or cleanse those  
23 discharges that pollute waters of the state, including Puget Sound or  
24 waters entering Puget Sound. Where applicable the land use element  
25 shall incorporate storm water management programs adopted pursuant to  
26 the Puget Sound water quality management plan required under RCW  
27 90.70.060.

28       (2) A housing element recognizing the vitality and character of  
29 established residential neighborhoods that: (a) Includes an inventory  
30 and analysis of existing and projected housing needs; (b) includes a

1 statement of goals, policies, and objectives for the preservation,  
2 improvement, and development of housing; (c) identifies sufficient land  
3 for housing, including, but not limited to, government-assisted  
4 housing, housing for low-income families, manufactured housing,  
5 multifamily housing, and group homes and foster care facilities; and  
6 (d) makes adequate provisions for existing and projected needs of all  
7 economic segments of the community.

8 (3) A capital facilities plan element consisting of: (a) An  
9 inventory of existing capital facilities owned by public entities,  
10 showing the locations and capacities of the capital facilities; (b) a  
11 forecast of the future needs for such capital facilities; (c) the  
12 proposed locations and capacities of expanded or new capital  
13 facilities; (d) at least a six-year plan that will finance such capital  
14 facilities within projected funding capacities and clearly identifies  
15 sources of public money for such purposes; and (e) a requirement to  
16 reassess the land use element if probable funding falls short of  
17 meeting existing needs and to ensure that the land use element, capital  
18 facilities plan element, and financing plan within the capital  
19 facilities plan element are coordinated and consistent.

20 (4) A utilities element consisting of the general location,  
21 proposed location, and capacity of all existing and proposed utilities,  
22 including, but not limited to, electrical lines, telecommunication  
23 lines, and natural gas lines.

24 (5) Counties shall include a rural element including lands that are  
25 not designated for urban growth, agriculture, forest, or mineral  
26 resources. The rural element shall permit land uses that are  
27 compatible with the rural character of such lands and provide for a  
28 variety of rural densities.

1 (6) A transportation element that implements, and is consistent  
2 with, the land use element. The transportation element shall include  
3 the following subelements:

4 (a) Land use assumptions used in estimating travel;

5 (b) Facilities and services needs, including:

6 (i) An inventory of air, water, and land transportation facilities  
7 and services, including transit alignments, to define existing capital  
8 facilities and travel levels as a basis for future planning;

9 (ii) Level of service standards for all arterials and transit  
10 routes to serve as a gauge to judge performance of the system. These  
11 standards should be regionally coordinated;

12 (iii) Specific actions and requirements for bringing into  
13 compliance any facilities or services that are below an established  
14 level of service standard;

15 (iv) Forecasts of traffic for at least ten years based on the  
16 adopted land use plan to provide information on the location, timing,  
17 and capacity needs of future growth;

18 (v) Identification of system expansion needs and transportation  
19 system management needs to meet current and future demands;

20 (c) Finance, including:

21 (i) An analysis of funding capability to judge needs against  
22 probable funding resources;

23 (ii) A multiyear financing plan based on the needs identified in  
24 the comprehensive plan, the appropriate parts of which shall serve as  
25 the basis for the six-year street, road, or transit program required by  
26 RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW  
27 35.58.2795 for public transportation systems;

28 (iii) If probable funding falls short of meeting identified needs,  
29 a discussion of how additional funding will be raised, or how land use

1 assumptions will be reassessed to ensure that level of service  
2 standards will be met;

3 (d) Intergovernmental coordination efforts, including an assessment  
4 of the impacts of the transportation plan and land use assumptions on  
5 the transportation systems of adjacent jurisdictions;

6 (e) Demand-management strategies.

7 (7) The land use, capital facilities, and transportation elements  
8 of comprehensive plans shall incorporate and be consistent with  
9 applicable provisions of watershed management plans adopted pursuant to  
10 the Puget Sound water quality management plan.

11 After adoption of the comprehensive plan by jurisdictions required  
12 to plan or who choose to plan under RCW 36.70A.040, local jurisdictions  
13 must adopt and enforce ordinances which prohibit development approval  
14 if the development causes the level of service on a transportation  
15 facility to decline below the standards adopted in the transportation  
16 element of the comprehensive plan, unless transportation improvements  
17 or strategies to accommodate the impacts of development are made  
18 concurrent with the development. These strategies may include  
19 increased public transportation service, ride sharing programs, demand  
20 management, and other transportation systems management strategies.  
21 For the purposes of this (~~subsection (6)~~) section "concurrent with  
22 the development" shall mean that improvements or strategies are in  
23 place at the time of development, or that a financial commitment is in  
24 place to complete the improvements or strategies within six years.

25 The transportation element described in this subsection, and the  
26 six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for  
27 counties, and RCW 35.58.2795 for public transportation systems, must be  
28 consistent.

1       **Sec. 3.** RCW 70.146.060 and 1987 c 527 s 1 and 1987 c 436 s 7 are  
2 each reenacted and amended to read as follows:

3       During the period from July 1, 1987, until June 30, 1995, the  
4 following limitations shall apply to the department's total  
5 distribution of funds appropriated from the water quality account:

6       (1) Not more than fifty percent for water pollution control  
7 facilities which discharge directly into marine waters, including  
8 projects to reduce combined sewer overflows;

9       (2) Not more than twenty percent for water pollution control  
10 activities that prevent or mitigate pollution of underground waters and  
11 facilities that protect federally designated sole source aquifers with  
12 at least two-thirds for the Spokane-Rathdrum Prairie Aquifer;

13       (3) Not more than ten percent for water pollution control  
14 activities that protect freshwater lakes and rivers including but not  
15 limited to Lake Chelan and the Yakima and Columbia rivers;

16       (4) Not more than ten percent for activities which control nonpoint  
17 source water pollution;

18       (5) Ten percent and such sums as may be remaining from the  
19 categories specified in subsections (1) through (4) of this section for  
20 water pollution control activities or facilities as determined by the  
21 department; and

22       (6) Two and one-half percent of the total amounts of moneys under  
23 subsections (1) through (5) of this section from February 21, 1986,  
24 until December 31, 1995, shall be appropriated biennially to the state  
25 conservation commission for the purposes of this chapter. Not less  
26 than ten percent of the moneys received by the state conservation  
27 commission under the provisions of this section shall be expended on  
28 research activities.

29       The distribution under this section shall not be required to be met  
30 in any single fiscal year.

1 Funds provided for facilities and activities under this chapter may  
2 be used for payments to a service provider under a service agreement  
3 pursuant to RCW 70.150.060. If funds are to be used for such payments,  
4 the department may make periodic disbursements to a public body or may  
5 make a single lump sum disbursement. Disbursements of funds with  
6 respect to a facility owned or operated by a service provider shall be  
7 equivalent in value to disbursements that would otherwise be made if  
8 that facility were owned or operated by a public body. Payments under  
9 this chapter for waste disposal and management facilities made to  
10 public bodies entering into service agreements pursuant to RCW  
11 70.150.060 shall not exceed amounts paid to public bodies not entering  
12 into service agreements.

13 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.20 RCW  
14 to read as follows:

15 Before the closing of the sale of real property located within a  
16 marine resource protection area designated under section 5 of this act,  
17 the seller shall provide a report to the purchaser that discloses  
18 whether the property being sold is served by a public or private sewer  
19 system, an on-site sewage disposal system, other means of waste  
20 disposal, or is undeveloped property. If the property is served by an  
21 on-site sewage disposal system, the report shall include:

22 (1) The location of the system and, if known, the location of  
23 drainfields identified on a scale drawing;

24 (2) Drawings of the system as it was built, if available from  
25 either the seller or the local health agency; and

26 (3) A statement of the most recent pumping of the system and a  
27 description of the most recent inspection of the system by a certified  
28 professional, if known.

1        NEW SECTION.    **Sec. 5.**    A new section is added to chapter 43.20 RCW  
2 to read as follows:

3        (1) On or before January 1, 1992, the department of health shall  
4 propose rules for adoption by the state board of health to implement  
5 section 4 of this act.    The rules shall:

6        (a) Specify the contents of the report to be provided by the  
7 seller; and

8        (b) Specify criteria to guide local health agencies in the  
9 designation of marine resource protection areas under subsection (2) of  
10 this section.    The criteria may include, but are not limited to, the  
11 number and density of on-site sewage disposal systems within an area,  
12 the presence of other potential contaminant sources, and the potential  
13 that unique or important marine resources, including shellfish  
14 resources, may be adversely impacted.

15        (2) Before July 1, 1992, each local health agency having  
16 jurisdiction within counties whose waters drain into Puget Sound shall  
17 designate marine resource protection areas within which the  
18 requirements of section 4 of this act shall apply.

19        NEW SECTION.    **Sec. 6.**    The department of ecology shall establish  
20 a pilot two-year grant program, beginning July 1, 1991, for local  
21 governments to conduct demonstration projects for the purpose of  
22 encouraging the proper disposal and recycling of household waste motor  
23 oil.    The department shall award a minimum of three grants for this  
24 purpose.

25        NEW SECTION.    **Sec. 7.**    The sum of two hundred thousand dollars, or  
26 as much thereof as may be necessary, is appropriated for the biennium  
27 ending June 30, 1993, from the state toxics control account to the



1 department of ecology to be used for grants to local governments to  
2 implement section 6 of this act.

3 NEW SECTION. **Sec. 8.** A new section is added to chapter 90.48 RCW  
4 to read as follows:

5 All penalties collected under RCW 90.48.144 shall be deposited in  
6 the water pollution control account, which is hereby created in the  
7 state treasury. Moneys in the account shall be expended exclusively by  
8 the department of ecology for the purposes of this chapter, subject to  
9 legislative appropriation. All earnings of balances in the water  
10 pollution control account shall be credited to the general fund.

11 **Sec. 9.** RCW 43.21B.300 and 1987 c 109 s 5 are each amended to read  
12 as follows:

13 (1) Any civil penalty provided in RCW 70.94.431, 70.105.080,  
14 70.107.050, 90.03.600, 90.48.144, and 90.48.350 shall be imposed by a  
15 notice in writing, either by certified mail with return receipt  
16 requested or by personal service, to the person incurring the penalty  
17 from the department or the local air authority, describing the  
18 violation with reasonable particularity. Within fifteen days after the  
19 notice is received, the person incurring the penalty may apply in  
20 writing to the department or the authority for the remission or  
21 mitigation of the penalty. Upon receipt of the application, the  
22 department or authority may remit or mitigate the penalty upon whatever  
23 terms the department or the authority in its discretion deems proper.  
24 The department or the authority may ascertain the facts regarding all  
25 such applications in such reasonable manner and under such rules as it  
26 may deem proper and shall remit or mitigate the penalty only upon a  
27 demonstration of extraordinary circumstances such as the presence of  
28 information or factors not considered in setting the original penalty.

1 (2) Any penalty imposed under this section may be appealed to the  
2 pollution control hearings board in accordance with this chapter if the  
3 appeal is filed with the hearings board and served on the department or  
4 authority thirty days after receipt by the person penalized of the  
5 notice imposing the penalty or thirty days after receipt of the notice  
6 of disposition of the application for relief from penalty.

7 (3) A penalty shall become due and payable on the later of:

8 (a) Thirty days after receipt of the notice imposing the penalty;

9 (b) Thirty days after receipt of the notice of disposition on  
10 application for relief from penalty, if such an application is made; or

11 (c) Thirty days after receipt of the notice of decision of the  
12 hearings board if the penalty is appealed.

13 (4) If the amount of any penalty is not paid to the  
14 department within thirty days after it becomes due and payable, the  
15 attorney general, upon request of the department, shall bring an action  
16 in the name of the state of Washington in the superior court of  
17 Thurston county, or of any county in which the violator does business,  
18 to recover the penalty. If the amount of the penalty is not paid to  
19 the authority within thirty days after it becomes due and payable, the  
20 authority may bring an action to recover the penalty in the superior  
21 court of the county of the authority's main office or of any county in  
22 which the violator does business. In these actions, the procedures and  
23 rules of evidence shall be the same as in an ordinary civil action.

24 (5) All penalties recovered shall be paid into the state treasury  
25 and credited to the general fund except those penalties imposed  
26 pursuant to RCW 70.94.431, the disposition of which shall be governed  
27 by that provision, RCW 70.105.080, which shall be credited to the  
28 hazardous waste control and elimination account, created by RCW  
29 70.105.180, RCW 90.48.144, which shall be credited to the water  
30 pollution control account, created by section 8 of this act, and RCW

1 90.48.350, which shall be credited to the coastal protection fund  
2 created by RCW 90.48.390.

3 NEW SECTION. **Sec. 10.** Section 4 of this act shall take effect  
4 July 1, 1992.