
SENATE BILL 5545

State of Washington

56th Legislature

1999 Regular Session

By Senators Fraser and Kline

Read first time 01/27/1999. Referred to Committee on Environmental Quality & Water Resources.

1 AN ACT Relating to water pollution control; amending RCW 90.48.260;
2 adding a new section to chapter 90.48 RCW; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** The federal clean water act requires the
5 development of a total maximum daily load for those waters of the state
6 that are impaired with pollutants and are listed subject to section
7 303(d) of the clean water act. In 1997, the federal environmental
8 protection agency settled a lawsuit challenging the failure to develop
9 total maximum daily loads under section 303(d) of the clean water act.
10 The state of Washington was included in the resulting consent decree
11 that established a fifteen-year timeline for completing development of
12 total maximum daily loads. It is the intent of the legislature to meet
13 the water quality standards within the established timeline or more
14 quickly if possible, by meeting established standards, not by changing
15 those standards.

16 In addition to developing total maximum daily loads, the
17 legislature supports efforts of the state to attain water quality
18 standards using other water pollution control programs that will result

1 in meeting water quality standards sooner than the fifteen-year
2 schedule under the consent decree.

3 There are many benefits to the state of the department of ecology's
4 ability to achieve water quality standards and make progress on the
5 schedule described in the settlement agreement. The benefits include
6 improved water quality; greater certainty for regulated industry and
7 businesses; the ability to address needs under the federal endangered
8 species act, 16 U.S.C. Secs. 1531 through 1534; and the confidence the
9 state's citizens have gained that the state is making progress in
10 attaining fishable, swimmable, drinkable waters.

11 It is the intent of the legislature that the state maintain high
12 water quality standards and that the list of impaired and polluted
13 waters in the state not grow in number. The legislature intends that
14 the waters on the 303(d) list be cleaned up and that clean waters not
15 be allowed to become impaired or polluted. Waters not currently on the
16 list should not be allowed to degrade to the point that they must be
17 added to the list.

18 It is further the intent that the actions of the state, local
19 government, and the private sector should not cause further
20 deterioration of water quality.

21 **Sec. 2.** RCW 90.48.260 and 1988 c 220 s 1 are each amended to read
22 as follows:

23 The department of ecology is hereby designated as the State Water
24 Pollution Control Agency for all purposes of the federal clean water
25 act as it exists on February 4, 1987, and is hereby authorized to
26 participate fully in the programs of the act as well as to take all
27 action necessary to secure to the state the benefits and to meet the
28 requirements of that act. With regard to the national estuary program
29 established by section 320 of that act, the department shall exercise
30 its responsibility jointly with the Puget Sound (~~water quality~~
31 ~~authority~~) action team. The powers granted herein include, among
32 others, and notwithstanding any other provisions of chapter 90.48 RCW
33 or otherwise, the following:

34 (1) Complete authority to establish and administer a comprehensive
35 state point source waste discharge or pollution discharge elimination
36 permit program which will enable the department to qualify for full
37 participation in any national waste discharge or pollution discharge
38 elimination permit system and will allow the department to be the sole

1 agency issuing permits required by such national system operating in
2 the state of Washington subject to the provisions of RCW 90.48.262(2).
3 Program elements authorized herein may include, but are not limited
4 to: (a) Effluent treatment and limitation requirements together with
5 timing requirements related thereto; (b) applicable receiving water
6 quality standards requirements; (c) requirements of standards of
7 performance for new sources; (d) pretreatment requirements; (e)
8 termination and modification of permits for cause; (f) requirements for
9 public notices and opportunities for public hearings; (g) appropriate
10 relationships with the secretary of the army in the administration of
11 his responsibilities which relate to anchorage and navigation, with the
12 administrator of the environmental protection agency in the performance
13 of his duties, and with other governmental officials under the federal
14 clean water act; (h) requirements for inspection, monitoring, entry,
15 and reporting; (i) enforcement of the program through penalties,
16 emergency powers, and criminal sanctions; (j) a continuing planning
17 process; ~~((and))~~ (k) user charges; and (l) complete authority to
18 implement the consent decree as it existed January 20, 1998, in
19 Northwest Environmental Advocates, et al. v. Environmental Protection
20 Agency entered in the United States district court for the western
21 district of Washington.

22 (2) The power to establish and administer state programs in a
23 manner which will insure the procurement of moneys, whether in the form
24 of grants, loans, or otherwise; to assist in the construction,
25 operation, and maintenance of various water pollution control
26 facilities and works; and the administering of various state water
27 pollution control management, regulatory, and enforcement programs.

28 (3) The power to develop and implement appropriate programs
29 pertaining to continuing planning processes, area-wide waste treatment
30 management plans, and basin planning.

31 The governor shall have authority to perform those actions required
32 of him or her by the federal clean water act.

33 NEW SECTION. Sec. 3. A new section is added to chapter 90.48 RCW
34 to read as follows:

35 (1) The department shall develop a public information plan to
36 disseminate information about the federal clean water act section
37 303(d) list and total maximum daily loads. The plan shall include
38 information on the effects of impaired or polluted water and the

1 programs available to improve water quality and attain water quality
2 standards. The plan shall provide information about opportunities to
3 comment on the federal clean water act section 303(d) list and total
4 maximum daily loads. Distribution of the plan shall include, but is
5 not limited to the news media; water, sewer, irrigation, and public
6 utility districts; local governments; tribes; and citizens.

7 (2) The department shall publish in the Washington State Register,
8 the list required by section 303(d) of the clean water act, 33 U.S.C.
9 Sec. 1313(d)(1)(A).

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