

---

HOUSE BILL 2241

---

State of Washington

58th Legislature

2003 Regular Session

By Representatives Cooper, Linville and Upthegrove

Read first time 04/08/2003. Referred to Committee on Fisheries,  
Ecology & Parks.

1 AN ACT Relating to marine protection in Puget Sound; amending RCW  
2 90.56.500 and 43.21B.300; reenacting and amending RCW 43.84.092 and  
3 43.79A.040; adding a new section to chapter 90.56 RCW; creating new  
4 sections; and providing an expiration date.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the marine waters  
7 located in and adjacent to the Strait of Juan de Fuca between the state  
8 of Washington and Canada are some of the most pristine and diverse  
9 marine waters in the United States and include irreplaceable natural  
10 resources. The area includes such national treasures as the Olympic  
11 coast national marine sanctuary and the Olympic national park, is home  
12 to five federally recognized Indian reservations, holds one of the  
13 largest sea bird colonies on the west coast, and contains habitat for  
14 several threatened and endangered species.

15 The legislature also finds that the marine waters are of great  
16 environmental and economic importance not only to the state of  
17 Washington, but also to the people of Canada and the United States.  
18 The legislature also recognizes that the marine vessel traffic on these  
19 waters presents risks of accidents and oil spills that would be

1 devastating to the environment and to the economy. The safety of these  
2 waters is currently substantially improved on a temporary basis by an  
3 oil spill prevention tugboat stationed at the westward end of the  
4 Strait of Juan de Fuca. Permanent funding for marine protection would  
5 ensure that the marine waters of Washington could be protected for  
6 generations to come. Therefore, it is the policy of the state to  
7 create a dedicated account for funds to protect the marine waters on  
8 the coast and in the Strait of Juan de Fuca.

9 NEW SECTION. **Sec. 2.** (1) The department of ecology shall complete  
10 an evaluation of tug escort requirements for laden tankers to determine  
11 if the current escort system requirements under RCW 88.16.190 should be  
12 modified to recognize safety enhancements of new double hull tankers  
13 deployed with redundant systems and recent enhancements to the  
14 international tug of opportunity system. The department shall provide  
15 a report with recommendations to the governor and the appropriate  
16 committees of the legislature by January 1, 2005.

17 (2) This section expires January 31, 2005.

18 NEW SECTION. **Sec. 3.** A new section is added to chapter 90.56 RCW  
19 to read as follows:

20 The marine protection account is created in the custody of the  
21 state treasury. All receipts from federal funds provided for marine  
22 protection, interest earnings from the oil spill prevention account and  
23 the oil spill response account, vessel oil spill penalties assessed  
24 under RCW 90.56.330, and any other moneys appropriated to the account  
25 by the legislature must be deposited into the account. Expenditures  
26 from the account must be used for marine protection activities  
27 including but not limited to vessel salvage, an oil spill prevention  
28 tug, marine fire fighting activities, and other marine protection  
29 measures approved by the department. Only the director of the  
30 department of ecology or the director's designee may authorize  
31 expenditures from the account. The account is subject to allotment  
32 procedures under chapter 43.88 RCW, but an appropriation is not  
33 required for expenditures.

34 **Sec. 4.** RCW 90.56.500 and 1991 c 200 s 805 are each amended to  
35 read as follows:

1       The state oil spill response account is created in the state  
2 treasury. All receipts from RCW 82.23B.020(1) shall be deposited in  
3 the account. Interest earnings from the account shall be transferred  
4 by the state treasurer on a quarterly basis to the marine protection  
5 account established in section 3 of this act. All costs reimbursed to  
6 the state by a responsible party or any other person for responding to  
7 a spill of oil shall also be deposited in the account. Moneys in the  
8 account shall be spent only after appropriation. The account is  
9 subject to allotment procedures under chapter 43.88 RCW. The account  
10 shall be used exclusively to pay for the costs associated with the  
11 response to spills of crude oil or petroleum products into the  
12 navigable waters of the state. Payment of response costs under this  
13 section shall be limited to spills which the director has determined  
14 are likely to exceed fifty thousand dollars. Before expending moneys  
15 from the account, the director shall make reasonable efforts to obtain  
16 funding for response costs from the person responsible for the spill  
17 and from other sources, including the federal government.  
18 Reimbursement for response costs shall be allowed only for costs which  
19 are not covered by funds appropriated to the agencies responsible for  
20 response activities. Costs associated with the response to spills of  
21 crude oil or petroleum products shall include:

- 22       (1) Natural resource damage assessment and related activities;
- 23       (2) Spill related response, containment, wildlife rescue, cleanup,  
24 disposal, and associated costs;
- 25       (3) Interagency coordination and public information related to a  
26 response; and
- 27       (4) Appropriate travel, goods and services, contracts, and  
28 equipment.

29       **Sec. 5.** RCW 43.21B.300 and 2001 c 36 s 2 are each amended to read  
30 as follows:

- 31       (1) Any civil penalty provided in RCW 18.104.155, 70.94.431,  
32 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310, and  
33 90.56.330 shall be imposed by a notice in writing, either by certified  
34 mail with return receipt requested or by personal service, to the  
35 person incurring the penalty from the department or the local air  
36 authority, describing the violation with reasonable particularity.  
37 Within fifteen days after the notice is received, the person incurring

1 the penalty may apply in writing to the department or the authority for  
2 the remission or mitigation of the penalty. Upon receipt of the  
3 application, the department or authority may remit or mitigate the  
4 penalty upon whatever terms the department or the authority in its  
5 discretion deems proper. The department or the authority may ascertain  
6 the facts regarding all such applications in such reasonable manner and  
7 under such rules as it may deem proper and shall remit or mitigate the  
8 penalty only upon a demonstration of extraordinary circumstances such  
9 as the presence of information or factors not considered in setting the  
10 original penalty.

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

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

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

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

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

23 (4) If the amount of any penalty is not paid to the department  
24 within thirty days after it becomes due and payable, the attorney  
25 general, upon request of the department, shall bring an action in the  
26 name of the state of Washington in the superior court of Thurston  
27 county, or of any county in which the violator does business, to  
28 recover the penalty. If the amount of the penalty is not paid to the  
29 authority within thirty days after it becomes due and payable, the  
30 authority may bring an action to recover the penalty in the superior  
31 court of the county of the authority's main office or of any county in  
32 which the violator does business. In these actions, the procedures and  
33 rules of evidence shall be the same as in an ordinary civil action.

34 (5) All penalties recovered shall be paid into the state treasury  
35 and credited to the general fund except those penalties imposed  
36 pursuant to RCW 18.104.155, which shall be credited to the reclamation  
37 account as provided in RCW 18.104.155(7), RCW 70.94.431, the  
38 disposition of which shall be governed by that provision, RCW

1 70.105.080, which shall be credited to the hazardous waste control and  
2 elimination account, created by RCW 70.105.180, and RCW 90.56.330,  
3 which shall be credited to the coastal protection fund created by RCW  
4 90.48.390 and to the marine protection account created in section 3 of  
5 this act as provided in subsection (6) of this section.

6 (6) Penalties assessed under RCW 90.56.330 against an owner or  
7 operator of a ship as defined under RCW 90.56.010 shall be credited to  
8 the marine protection account created in section 3 of this act.

9 **Sec. 6.** RCW 43.84.092 and 2002 c 242 s 2, 2002 c 114 s 24, and  
10 2002 c 56 s 402 are each reenacted and amended to read as follows:

11 (1) All earnings of investments of surplus balances in the state  
12 treasury shall be deposited to the treasury income account, which  
13 account is hereby established in the state treasury.

14 (2) The treasury income account shall be utilized to pay or receive  
15 funds associated with federal programs as required by the federal cash  
16 management improvement act of 1990. The treasury income account is  
17 subject in all respects to chapter 43.88 RCW, but no appropriation is  
18 required for refunds or allocations of interest earnings required by  
19 the cash management improvement act. Refunds of interest to the  
20 federal treasury required under the cash management improvement act  
21 fall under RCW 43.88.180 and shall not require appropriation. The  
22 office of financial management shall determine the amounts due to or  
23 from the federal government pursuant to the cash management improvement  
24 act. The office of financial management may direct transfers of funds  
25 between accounts as deemed necessary to implement the provisions of the  
26 cash management improvement act, and this subsection. Refunds or  
27 allocations shall occur prior to the distributions of earnings set  
28 forth in subsection (4) of this section.

29 (3) Except for the provisions of RCW 43.84.160, the treasury income  
30 account may be utilized for the payment of purchased banking services  
31 on behalf of treasury funds including, but not limited to, depository,  
32 safekeeping, and disbursement functions for the state treasury and  
33 affected state agencies. The treasury income account is subject in all  
34 respects to chapter 43.88 RCW, but no appropriation is required for  
35 payments to financial institutions. Payments shall occur prior to  
36 distribution of earnings set forth in subsection (4) of this section.

1 (4) Monthly, the state treasurer shall distribute the earnings  
2 credited to the treasury income account. The state treasurer shall  
3 credit the general fund with all the earnings credited to the treasury  
4 income account except:

5 (a) The following accounts and funds shall receive their  
6 proportionate share of earnings based upon each account's and fund's  
7 average daily balance for the period: The capitol building  
8 construction account, the Cedar River channel construction and  
9 operation account, the Central Washington University capital projects  
10 account, the charitable, educational, penal and reformatory  
11 institutions account, the common school construction fund, the county  
12 criminal justice assistance account, the county sales and use tax  
13 equalization account, the data processing building construction  
14 account, the deferred compensation administrative account, the deferred  
15 compensation principal account, the department of retirement systems  
16 expense account, the drinking water assistance account, the drinking  
17 water assistance administrative account, the drinking water assistance  
18 repayment account, the Eastern Washington University capital projects  
19 account, the education construction fund, the emergency reserve fund,  
20 the federal forest revolving account, the health services account, the  
21 oil spill response account, the public health services account, the  
22 health system capacity account, the personal health services account,  
23 the state higher education construction account, the higher education  
24 construction account, the highway infrastructure account, the  
25 industrial insurance premium refund account, the judges' retirement  
26 account, the judicial retirement administrative account, the judicial  
27 retirement principal account, the local leasehold excise tax account,  
28 the local real estate excise tax account, the local sales and use tax  
29 account, the medical aid account, the mobile home park relocation fund,  
30 the multimodal transportation account, the municipal criminal justice  
31 assistance account, the municipal sales and use tax equalization  
32 account, the natural resources deposit account, the oyster reserve land  
33 account, the perpetual surveillance and maintenance account, the public  
34 employees' retirement system plan 1 account, the public employees'  
35 retirement system combined plan 2 and plan 3 account, the public  
36 facilities construction loan revolving account beginning July 1, 2004,  
37 the public health supplemental account, the Puyallup tribal settlement  
38 account, the regional transportation investment district account, the

1 resource management cost account, the site closure account, the special  
2 wildlife account, the state employees' insurance account, the state  
3 employees' insurance reserve account, the state investment board  
4 expense account, the state investment board commingled trust fund  
5 accounts, the supplemental pension account, the Tacoma Narrows toll  
6 bridge account, the teachers' retirement system plan 1 account, the  
7 teachers' retirement system combined plan 2 and plan 3 account, the  
8 tobacco prevention and control account, the tobacco settlement account,  
9 the transportation infrastructure account, the tuition recovery trust  
10 fund, the University of Washington bond retirement fund, the University  
11 of Washington building account, the volunteer fire fighters' and  
12 reserve officers' relief and pension principal fund, the volunteer fire  
13 fighters' and reserve officers' administrative fund, the Washington  
14 fruit express account, the Washington judicial retirement system  
15 account, the Washington law enforcement officers' and fire fighters'  
16 system plan 1 retirement account, the Washington law enforcement  
17 officers' and fire fighters' system plan 2 retirement account, the  
18 Washington school employees' retirement system combined plan 2 and 3  
19 account, the Washington state health insurance pool account, the  
20 Washington state patrol retirement account, the Washington State  
21 University building account, the Washington State University bond  
22 retirement fund, the water pollution control revolving fund, and the  
23 Western Washington University capital projects account. Earnings  
24 derived from investing balances of the agricultural permanent fund, the  
25 normal school permanent fund, the permanent common school fund, the  
26 scientific permanent fund, and the state university permanent fund  
27 shall be allocated to their respective beneficiary accounts. All  
28 earnings to be distributed under this subsection (4)(a) shall first be  
29 reduced by the allocation to the state treasurer's service fund  
30 pursuant to RCW 43.08.190.

31 (b) The following accounts and funds shall receive eighty percent  
32 of their proportionate share of earnings based upon each account's or  
33 fund's average daily balance for the period: The aeronautics account,  
34 the aircraft search and rescue account, the county arterial  
35 preservation account, the department of licensing services account, the  
36 essential rail assistance account, the ferry bond retirement fund, the  
37 grade crossing protective fund, the high capacity transportation  
38 account, the highway bond retirement fund, the highway safety account,

1 the motor vehicle fund, the motorcycle safety education account, the  
2 pilotage account, the public transportation systems account, the Puget  
3 Sound capital construction account, the Puget Sound ferry operations  
4 account, the recreational vehicle account, the rural arterial trust  
5 account, the safety and education account, the special category C  
6 account, the state patrol highway account, the transportation equipment  
7 fund, the transportation fund, the transportation improvement account,  
8 the transportation improvement board bond retirement account, and the  
9 urban arterial trust account.

10 (5) In conformance with Article II, section 37 of the state  
11 Constitution, no treasury accounts or funds shall be allocated earnings  
12 without the specific affirmative directive of this section.

13 **Sec. 7.** RCW 43.79A.040 and 2002 c 322 s 5, 2002 c 204 s 7, and  
14 2002 c 61 s 6 are each reenacted and amended to read as follows:

15 (1) Money in the treasurer's trust fund may be deposited, invested,  
16 and reinvested by the state treasurer in accordance with RCW 43.84.080  
17 in the same manner and to the same extent as if the money were in the  
18 state treasury.

19 (2) All income received from investment of the treasurer's trust  
20 fund shall be set aside in an account in the treasury trust fund to be  
21 known as the investment income account.

22 (3) The investment income account may be utilized for the payment  
23 of purchased banking services on behalf of treasurer's trust funds  
24 including, but not limited to, depository, safekeeping, and  
25 disbursement functions for the state treasurer or affected state  
26 agencies. The investment income account is subject in all respects to  
27 chapter 43.88 RCW, but no appropriation is required for payments to  
28 financial institutions. Payments shall occur prior to distribution of  
29 earnings set forth in subsection (4) of this section.

30 (4)(a) Monthly, the state treasurer shall distribute the earnings  
31 credited to the investment income account to the state general fund  
32 except under (b) and (c) of this subsection.

33 (b) The following accounts and funds shall receive their  
34 proportionate share of earnings based upon each account's or fund's  
35 average daily balance for the period: The Washington promise  
36 scholarship account, the college savings program account, the  
37 Washington advanced college tuition payment program account, the



1 agricultural local fund, the American Indian scholarship endowment  
2 fund, the basic health plan self-insurance reserve account, the  
3 Washington state combined fund drive account, the Washington  
4 international exchange scholarship endowment fund, the developmental  
5 disabilities endowment trust fund, the energy account, the fair fund,  
6 the fruit and vegetable inspection account, the game farm alternative  
7 account, the grain inspection revolving fund, the juvenile  
8 accountability incentive account, the marine protection account created  
9 in section 3 of this act, the rural rehabilitation account, the stadium  
10 and exhibition center account, the youth athletic facility account, the  
11 self-insurance revolving fund, the sulfur dioxide abatement account,  
12 and the children's trust fund. However, the earnings to be distributed  
13 shall first be reduced by the allocation to the state treasurer's  
14 service fund pursuant to RCW 43.08.190.

15 (c) The following accounts and funds shall receive eighty percent  
16 of their proportionate share of earnings based upon each account's or  
17 fund's average daily balance for the period: The advanced right of way  
18 revolving fund, the advanced environmental mitigation revolving  
19 account, the city and county advance right-of-way revolving fund, the  
20 federal narcotics asset forfeitures account, the high occupancy vehicle  
21 account, the local rail service assistance account, and the  
22 miscellaneous transportation programs account.

23 (5) In conformance with Article II, section 37 of the state  
24 Constitution, no trust accounts or funds shall be allocated earnings  
25 without the specific affirmative directive of this section.

--- END ---