
ENGROSSED SECOND SUBSTITUTE SENATE BILL 5957

State of Washington

58th Legislature

2004 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, Rasmussen, Morton, Swecker, Doumit, Sheahan, Oke and Brandland)

READ FIRST TIME 02/10/04.

1 AN ACT Relating to the collection and use of water quality data;
2 adding new sections to chapter 90.48 RCW; and creating new sections.

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

4 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

5 (a) Proper collection and review of credible water quality data is
6 necessary to ensure compliance with the requirements of the federal
7 clean water act;

8 (b) Developing and implementing water quality protection measures
9 based only on credible water quality data ensures that the financial
10 resources of state and local governments and regulated entities are
11 prioritized to address our state's most important water quality issues;
12 and

13 (c) The state currently lacks standards relating to the collection
14 of water quality data even though the collection and analysis of that
15 data provides the basis for water quality protection efforts and can
16 have significant regulatory and financial impacts.

17 (2) It is the intent of the legislature to establish a system of
18 standards and procedures to ensure that only credible water quality
19 data is used as the basis for specific state water quality programs.

1 (3) It is the intent of the legislature that a water body in which
2 pollutant loadings from naturally occurring conditions alone are
3 sufficient to cause a violation of applicable surface water quality
4 standards not be listed as impaired.

5 NEW SECTION. **Sec. 2.** The definitions in this section apply
6 throughout sections 3 through 6 of this act unless the context clearly
7 requires otherwise.

8 (1) "Credible data" means data meeting the requirements of section
9 4 of this act.

10 (2) "Department" means the Washington state department of ecology.

11 (3) "Impaired water" means a water body or segment thereof for
12 which credible data exists that satisfies the requirements of sections
13 3 through 6 of this act that demonstrates that the water body should be
14 identified pursuant to 33 U.S.C. Sec. 1313(d).

15 (4) "Naturally occurring condition" means any condition affecting
16 water quality that is not caused by human influence on the environment
17 including, but not limited to, soils, geology, hydrology, climate,
18 wildlife influence on the environment, and water flow with specific
19 consideration given to seasonal and other natural variations.

20 (5) "Section 303(d)" means 33 U.S.C. Sec. 1313(d).

21 (6) "Section 305(b)" means 33 U.S.C. Sec. 1315(b).

22 (7) "Total maximum daily load" has the same meaning as in the
23 federal water pollution control act.

24 NEW SECTION. **Sec. 3.** (1) The department shall use only credible
25 data for the following actions after the effective date of this
26 section:

27 (a) Developing and reviewing any water quality standard;

28 (b) Determining whether any water of the state is to be placed on
29 or removed from any section 303(d) list;

30 (c) Establishing a total maximum daily load for any water of the
31 state;

32 (d) Determining whether any water of the state is supporting its
33 designated use or other classification; or

34 (e) Determining any degradation of a water of the state.

35 (2) The department may require use of credible data for any other
36 purpose not specifically included in subsection (1) of this section.

1 (3) For any action specifically included in subsection (1) of this
2 section that was completed before the effective date of this section,
3 the department shall adopt a process to evaluate whether credible data
4 was used, and, if not, to ensure compliance with the requirements of
5 this act, if requested by a person regulated under this chapter or a
6 person who consumes water from, fishes from, swims in, or otherwise
7 uses waters that are the subject of the data.

8 (4) When evaluating the waters of the state for any section 303(d)
9 list, the department may not categorize as "polluted waters that do not
10 require a TMDL" (water quality assessment category 4) or "polluted
11 waters that require a TMDL" (water quality assessment category 5)
12 unless credible data supports such a listing.

13 NEW SECTION. **Sec. 4.** (1) In collecting and analyzing water
14 quality data for any purpose identified in section 3 of this act, data
15 is considered credible data only if the department has determined all
16 of the following:

17 (a) Appropriate quality assurance and quality control procedures
18 were followed and documented in collecting and analyzing the data;

19 (b) The samples or analyses are representative of water quality
20 conditions at the time the data was collected;

21 (c) The data consists of an adequate number of samples based on the
22 nature of the water in question and the parameters being analyzed;

23 (d) The method of sampling and analysis, including analytical,
24 statistical, and modeling methods, is generally accepted and validated
25 in the scientific community as appropriate for use in assessing the
26 condition of the water; and

27 (e) The data was collected in a manner consistent with the
28 requirements of this section.

29 (2) The department shall adopt rules describing the training and
30 experience required for a person to be a qualified data collector for
31 the purposes of this section. The rules shall require the training to
32 include a thorough knowledge of the applicable sampling protocols and
33 field methods so that the data collection and interpretation are
34 reproducible, scientifically defensible, and free from preconceived
35 bias. The rules must authorize individuals with the necessary academic
36 credentials and experience to train other persons to be qualified data
37 collectors. The rules must require a person who chooses to submit data

1 for consideration as credible data to document the person's status as
2 a qualified data collector and certify that the credible data were
3 collected in accordance with the provisions of this section. The
4 department shall verify that a person submitting data is a qualified
5 data collector, review all data collected, and verify the accuracy of
6 the data. If the department determines that the data are accurate and
7 were collected by a qualified data collector in accordance with the
8 required procedures, the department shall approve the data as credible.

9 NEW SECTION. **Sec. 5.** In assessing whether a water body is
10 impaired, the department shall consider the data available in light of
11 the nature of the water in question, including whether the water body
12 is ephemeral.

13 NEW SECTION. **Sec. 6.** Any employee of the department who knowingly
14 misrepresents data shall be subject to the provisions of RCW 42.20.040
15 and 42.20.050.

16 NEW SECTION. **Sec. 7.** Sections 2 through 6 of this act are each
17 added to chapter 90.48 RCW.

18 NEW SECTION. **Sec. 8.** By January 31, 2005, the department of
19 ecology shall report to the appropriate committees of the senate and
20 the house of representatives the status of activities undertaken to
21 comply with the provisions of this act, and shall report by January
22 2006 any rule making required to implement this act including changes
23 in listings resulting from the use of credible data.

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