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SUBSTITUTE HOUSE BILL 2086

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State of Washington

59th Legislature

2005 Regular Session

**By** House Committee on Select Committee on Hood Canal (originally sponsored by Representatives McCoy, Eickmeyer, Chase, Wallace, Blake, Linville, Morrell, Upthegrove, Appleton and Hunt)

READ FIRST TIME 03/04/05.

1 AN ACT Relating to authorizing extension or expansion of sewage  
2 treatment systems in rural areas when necessary to address Hood Canal  
3 concerns; creating new sections; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that Hood Canal is  
6 a precious aquatic resource of our state. The legislature finds that  
7 Hood Canal is a rich source of recreation, fishing, aquaculture, and  
8 aesthetic enjoyment for the citizens of this state. The legislature  
9 also finds that Hood Canal has great cultural significance for the  
10 tribes in the Hood Canal area. The legislature therefore recognizes  
11 Hood Canal's substantial environmental, cultural, economic,  
12 recreational, and aesthetic importance to Washington.

13 (2) The legislature finds that Hood Canal is a marine water of the  
14 state at significant risk. The legislature finds that Hood Canal has  
15 a "dead zone" related to low-dissolved oxygen concentrations, a  
16 condition that has recurred for many years. The legislature also finds  
17 this problem and various contributors to the problem were documented in  
18 the May 2004 *Preliminary Assessment and Corrective Action Plan*  
19 published by the state Puget Sound action team and the Hood Canal

1 coordinating council. The legislature recognizes this report  
2 identifies on-site sewage systems as a prime contributor of nitrogen,  
3 a nutrient linked to the low-dissolved oxygen concentrations in Hood  
4 Canal.

5 (3) The legislature recognizes the state's growth management act  
6 specifies in RCW 36.70A.110(4) that generally it is not appropriate to  
7 extend or expand urban governmental services, such as sewer systems,  
8 into rural areas. The legislature also recognizes that RCW  
9 36.70A.110(4) contains an exception to this general rule in those  
10 limited circumstances shown to be necessary to protect basic public  
11 health and safety and the environment when the facilities are  
12 financially supportable at rural densities and do not permit urban  
13 development.

14 (4) The legislature recognizes the Washington supreme court in  
15 *Thurston County v. The Cooper Point Association*, 148 Wn.2d 1 (2002),  
16 approved a restrictive interpretation of the term "necessary" in the  
17 RCW 36.70A.110(4) exception to accomplish the legislature's intent in  
18 enacting these and other growth management act provisions. The court  
19 in the *Cooper Point* case also noted the existing sewage treatment plant  
20 and septic systems at issue in that case were not experiencing waste  
21 discharge problems that threaten public health and the environment.  
22 The legislature recognizes and affirms the RCW 36.70A.110(4) exception  
23 specifying that extension or expansion of urban governmental services,  
24 such as sewer systems, must be shown necessary to protect public health  
25 and the environment.

26 (5) The legislature intends to provide for an assessment of the  
27 efficacy of nitrogen reduction capabilities in existing and alternative  
28 on-site sewage treatment systems and an inventory of existing on-site  
29 sewage treatment systems in the Hood Canal vicinity to support  
30 development of sewage treatment solutions for this area.

31 NEW SECTION. **Sec. 2.** (1) The Puget Sound action team shall assess  
32 the effectiveness of nitrogen treatment provided by currently approved  
33 and alternative on-site sewage treatment technologies. The Puget Sound  
34 action team may consult with other federal, state, tribal, and local  
35 agencies in conducting this assessment. The Puget Sound action team  
36 shall submit a report documenting the findings of this assessment to  
37 the appropriate committees of the legislature by December 1, 2005.

1           (2) The Puget Sound action team, in consultation with local and  
2 state health agencies, shall conduct an inventory of on-site sewage  
3 systems operating in the Hood Canal watershed. The Puget Sound action  
4 team shall submit the inventory to the appropriate committees of the  
5 legislature by December 1, 2006.

6           NEW SECTION. **Sec. 3.** This act is necessary for the immediate  
7 preservation of the public peace, health, or safety, or support of the  
8 state government and its existing public institutions, and takes effect  
9 immediately.

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