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SENATE BILL 5286

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State of Washington

60th Legislature

2007 Regular Session

By Senators Rockefeller, Pridemore, Murray, Regala, Hobbs, Kilmer and Kohl-Welles

Read first time 01/16/2007. Referred to Committee on Water, Energy & Telecommunications.

1 AN ACT Relating to state financial assistance programs contributing  
2 to Puget Sound water quality cleanup; amending RCW 70.146.020,  
3 70.146.070, and 90.50A.010; adding a new section to chapter 70.146 RCW;  
4 adding a new section to chapter 90.50A RCW; adding a new section to  
5 chapter 90.71 RCW; and providing an effective date.

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

7 **Sec. 1.** RCW 70.146.020 and 1995 2nd sp.s. c 18 s 920 are each  
8 amended to read as follows:

9 ~~((Unless the context clearly requires otherwise,))~~ The definitions  
10 in this section apply throughout this chapter unless the context  
11 clearly requires otherwise.

12 (1) "Account" means the water quality account in the state  
13 treasury.

14 (2) "Council" means the Puget Sound partnership's leadership  
15 council created in chapter . . . ([House] [Senate] Bill No. . . .), Laws  
16 of 2007.

17 (3) "Department" means the department of ecology.

18 ~~((+3))~~ (4) "Eligible cost" means the cost of that portion of a  
19 water pollution control facility that can be financed under this

1 chapter excluding any portion of a facility's cost attributable to  
2 capacity that is in excess of that reasonably required to address one  
3 hundred ten percent of the applicant's needs for water pollution  
4 control existing at the time application is submitted for assistance  
5 under this chapter.

6 ~~((+4))~~ (5) "Implementation advisory board" means the board  
7 established to advise the Puget Sound partnership's leadership council,  
8 created by chapter . . . ([House] [Senate] Bill No. . . .), Laws of  
9 2007.

10 (6) "Puget Sound agenda" means the plan for the protection and  
11 restoration of Puget Sound required by chapter . . . ([House] [Senate]  
12 Bill No. . . .), Laws of 2007.

13 (7) "Puget Sound applications" means those applications for funding  
14 of water pollution control facilities and activities located within  
15 water resource inventory areas 1 through 19 in WAC 173-500-040 as it  
16 exists on the effective date of this section.

17 (8) "Water pollution control facility" or "facilities" means any  
18 facilities or systems for the control, collection, storage, treatment,  
19 disposal, or recycling of wastewater, including but not limited to  
20 sanitary sewage, storm water, residential, commercial, industrial, and  
21 agricultural wastes, which are causing water quality degradation due to  
22 concentrations of conventional, nonconventional, or toxic pollutants.  
23 Water pollution control facilities include all equipment, utilities,  
24 structures, real property, and interests in and improvements on real  
25 property necessary for or incidental to such purpose. Water pollution  
26 control facilities also include such facilities, equipment, and  
27 collection systems as are necessary to protect federally designated  
28 sole source aquifers. Water pollution control facility also includes  
29 facilities or systems that treat storm water discharges or delay peak  
30 storm water runoff, such as low-impact development projects.

31 ~~((+5))~~ (9) "Water pollution control activities" means actions  
32 taken by a public body for the following purposes: (a) To prevent or  
33 mitigate pollution of underground water; (b) to control nonpoint  
34 sources of water pollution; (c) to restore the water quality of fresh  
35 water lakes; and (d) to maintain or improve water quality through the  
36 use of water pollution control facilities or other means. ~~((During the~~  
37 ~~1995-1997 fiscal biennium, "water pollution control activities"~~

1 ~~includes activities by state agencies to protect public drinking water~~  
2 ~~supplies and sources.~~

3 ~~(6))~~ (10) "Public body" means the state of Washington or any  
4 agency, county, city or town, conservation district, other political  
5 subdivision, municipal corporation, quasi-municipal corporation, and  
6 those Indian tribes now or hereafter recognized as such by the federal  
7 government.

8 ~~((7))~~ (11) "Water pollution" means such contamination, or other  
9 alteration of the physical, chemical, or biological properties of any  
10 waters of the state, including change in temperature, taste, color,  
11 turbidity, or odor of the waters, or such discharge of any liquid,  
12 gaseous, solid, radioactive, or other substance into any waters of the  
13 state as will or is likely to create a nuisance or render such waters  
14 harmful, detrimental, or injurious to the public health, safety, or  
15 welfare, or to domestic, commercial, industrial, agricultural,  
16 recreational, or other legitimate beneficial uses, or to livestock,  
17 wild animals, birds, fish, or other aquatic life.

18 ~~((8))~~ (12) "Nonpoint source water pollution" means pollution that  
19 enters any waters of the state from any dispersed water-based or land-  
20 use activities, including, but not limited to, atmospheric deposition,  
21 surface water runoff from agricultural lands, urban areas, and forest  
22 lands, subsurface or underground sources, and discharges from boats or  
23 other marine vessels.

24 ~~((9))~~ (13) "Sole source aquifer" means the sole or principal  
25 source of public drinking water for an area designated by the  
26 administrator of the environmental protection agency pursuant to Public  
27 Law 93-523, Sec. 1424(b).

28 NEW SECTION. **Sec. 2.** A new section is added to chapter 70.146 RCW  
29 to read as follows:

30 (1) The department shall forward all Puget Sound applications that  
31 meet project and applicant eligibility requirements to the council to  
32 evaluate and rank the applications for their contribution toward  
33 implementing the Puget Sound agenda. The council and the department  
34 shall collaborate in this review, and may request additional  
35 information from applicants to ensure that the water pollution control  
36 benefits of the application are fully evaluated. The council may

1 request assistance from the implementation advisory board regarding the  
2 evaluation and ranking.

3 (2) The council shall hold at least one public meeting at which the  
4 public and project applicants may provide their comments on the  
5 applications and the contributions that the proposed projects and  
6 activities have toward implementing the Puget Sound agenda.

7 (3) The council shall provide its evaluation and ranking of the  
8 applications to the department in a timely manner prior to the  
9 department's award decisions. The council's evaluation must include  
10 recommendations for the level of funding and its assessment of the  
11 contribution that the project or activity may make toward implementing  
12 specific elements of the Puget Sound agenda.

13 (4) Where the department does not adopt a recommendation of the  
14 council, the department shall provide an explanation to the council  
15 when the award decisions are made.

16 **Sec. 3.** RCW 70.146.070 and 1999 c 164 s 603 are each amended to  
17 read as follows:

18 (1) When making grants or loans for water pollution control  
19 facilities, the department shall consider the following:

20 (a) The protection of water quality and public health;

21 (b) The cost to residential ratepayers if they had to finance water  
22 pollution control facilities without state assistance;

23 (c) Actions required under federal and state permits and compliance  
24 orders;

25 (d) The level of local fiscal effort by residential ratepayers  
26 since 1972 in financing water pollution control facilities;

27 (e) The extent to which the applicant county or city, or if the  
28 applicant is another public body, the extent to which the county or  
29 city in which the applicant public body is located, has established  
30 programs to mitigate nonpoint pollution of the surface or subterranean  
31 water sought to be protected by the water pollution control facility  
32 named in the application for state assistance; and

33 (f) The recommendations of the (~~Puget Sound action team~~) council  
34 provided under section 2 of this act and any other board, council,  
35 commission, or group established by the legislature or a state agency  
36 to study water pollution control issues in the state.

1 (2) Except where necessary to address a public health need or  
2 substantial environmental degradation, a county, city, or town planning  
3 under RCW 36.70A.040 may not receive a grant or loan for water  
4 pollution control facilities unless it has adopted a comprehensive  
5 plan, including a capital facilities plan element, and development  
6 regulations as required by RCW 36.70A.040. This subsection does not  
7 require any county, city, or town planning under RCW 36.70A.040 to  
8 adopt a comprehensive plan or development regulations before requesting  
9 or receiving a grant or loan under this chapter if such request is made  
10 before the expiration of the time periods specified in RCW 36.70A.040.  
11 A county, city, or town planning under RCW 36.70A.040 which has not  
12 adopted a comprehensive plan and development regulations within the  
13 time periods specified in RCW 36.70A.040 is not prohibited from  
14 receiving a grant or loan under this chapter if the comprehensive plan  
15 and development regulations are adopted as required by RCW 36.70A.040  
16 before submitting a request for a grant or loan.

17 (3) Whenever the department is considering awarding grants or loans  
18 for public facilities to special districts requesting funding for a  
19 proposed facility located in a county, city, or town planning under RCW  
20 36.70A.040, it shall consider whether the county, city, or town  
21 planning under RCW 36.70A.040 in whose planning jurisdiction the  
22 proposed facility is located has adopted a comprehensive plan and  
23 development regulations as required by RCW 36.70A.040.

24 **Sec. 4.** RCW 90.50A.010 and 1988 c 284 s 2 are each amended to read  
25 as follows:

26 (~~Unless the context clearly requires otherwise,~~) The definitions  
27 in this section apply throughout this chapter unless the context  
28 clearly requires otherwise.

29 (1) "Council" means the Puget Sound partnership's leadership  
30 council created in chapter . . . ([House] [Senate] Bill No. . . .), Laws  
31 of 2007.

32 (2) "Department" means the department of ecology.

33 ((+2)) (3) "Eligible cost" means the cost of that portion of a  
34 water pollution control facility or activity that can be financed under  
35 this chapter.

36 ((+3)) (4) "Fund" means the water pollution control revolving fund  
37 in the custody of the state treasurer.

1       ~~((4))~~ (5) "Implementation advisory board" means the board  
2 established to advise the Puget Sound partnership's leadership council,  
3 created by chapter . . . ([House] [Senate] Bill No. . . .), Laws of  
4 2007.

5       (6) "Puget Sound agenda" means the plan for the protection and  
6 restoration of Puget Sound required by chapter . . . ([House] [Senate]  
7 Bill No. . . .), Laws of 2007.

8       (7) "Puget Sound applications" means those applications for funding  
9 of water pollution control facilities and activities located within  
10 water resource inventory areas 1 through 19 in WAC 173-500-040 as it  
11 exists on the effective date of this section.

12       (8) "Water pollution control facility" or "water pollution control  
13 facilities" means any facilities or systems owned or operated by a  
14 public body for the control, collection, storage, treatment, disposal,  
15 or recycling of wastewater, including but not limited to sanitary  
16 sewage, storm water, combined sewer overflows, residential, commercial,  
17 industrial, and agricultural wastes, which are causing water quality  
18 degradation due to concentrations of conventional, nonconventional, or  
19 toxic pollutants. Water pollution control facilities include all  
20 equipment, utilities, structures, real property, and interests in and  
21 improvements on real property necessary for or incidental to such  
22 purpose. Water pollution control facilities also include such  
23 facilities, equipment, and collection systems as are necessary to  
24 protect federally designated sole source aquifers.

25       ~~((5))~~ (9) "Water pollution control activities" means actions  
26 taken by a public body for the following purposes: (a) To control  
27 nonpoint sources of water pollution; (b) to develop and implement a  
28 comprehensive management plan for estuaries; and (c) to maintain or  
29 improve water quality through the use of water pollution control  
30 facilities or other means.

31       ~~((6))~~ (10) "Public body" means the state of Washington or any  
32 agency, county, city or town, other political subdivision, municipal  
33 corporation or quasi-municipal corporation, and those Indian tribes now  
34 or hereafter recognized as such by the federal government.

35       ~~((7))~~ (11) "Water pollution" means such contamination, or other  
36 alteration of the physical, chemical, or biological properties of any  
37 waters of the state, including change in temperature, taste, color,  
38 turbidity, or odor of the waters, or such discharge of any liquid,

1 gaseous, solid, radioactive, or other substance into any waters of the  
2 state as will or is likely to create a nuisance or render such waters  
3 harmful, detrimental, or injurious to the public health, safety, or  
4 welfare, or to domestic, commercial, industrial, agricultural,  
5 recreational, or other legitimate beneficial uses, or to livestock,  
6 wild animals, birds, fish, or other aquatic life.

7 ~~((+8))~~ (12) "Nonpoint source water pollution" means pollution that  
8 enters any waters of the state from any dispersed water-based or land-  
9 use activities, including, but not limited to, atmospheric deposition,  
10 surface water runoff from agricultural lands, urban areas, and forest  
11 lands, subsurface or underground sources, and discharges from boats or  
12 other marine vessels.

13 ~~((+9))~~ (13) "Federal capitalization grants" means grants from the  
14 federal government provided by the water quality act of 1987 (P.L. 100-  
15 4).

16 NEW SECTION. **Sec. 5.** A new section is added to chapter 90.50A RCW  
17 to read as follows:

18 (1) The department shall forward all Puget Sound applications that  
19 meet project and applicant eligibility requirements to the council to  
20 evaluate and rank the applications for their contribution toward  
21 implementing the Puget Sound agenda. The council and the department  
22 shall collaborate in this review and may request additional information  
23 from applicants to ensure that the water pollution control benefits of  
24 the application are fully evaluated. The council may request  
25 assistance from the implementation advisory board regarding the  
26 evaluation and ranking.

27 (2) The council shall hold at least one public meeting at which the  
28 public and project applicants may provide their comments on the  
29 applications and the contributions that the proposed projects and  
30 activities have toward implementing the Puget Sound agenda.

31 (3) The council shall provide its evaluation and ranking of the  
32 applications to the department in a timely manner prior to the  
33 department's award decisions. The council's evaluation must include  
34 recommendations for the level of funding and its assessment of the  
35 contribution that the project or activity may make toward implementing  
36 specific elements of the Puget Sound agenda.

1 (4) Where the department does not adopt a recommendation of the  
2 council, the department shall provide an explanation to the council  
3 when the award decisions are made.

4 NEW SECTION. **Sec. 6.** A new section is added to chapter 90.71 RCW  
5 to read as follows:

6 (1) The Puget Sound partnership's leadership council, created in  
7 chapter . . . ([House] [Senate] Bill No. . . .), Laws of 2007, shall  
8 review the following state funding programs that provide state funding  
9 for facilities and activities that may contribute to the implementation  
10 of the Puget Sound agenda:

11 (a) The water quality account, chapter 70.146 RCW;

12 (b) The water pollution control revolving fund, chapter 90.50A RCW;

13 (c) The public works assistance account, chapter 43.155 RCW;

14 (d) The aquatic lands enhancement account, RCW 79.105.150;

15 (e) The state toxics control account and local toxics control  
16 account and clean-up program, chapter 70.105D RCW;

17 (f) The acquisition of habitat conservation and outdoor recreation  
18 land, chapter 79A.15 RCW;

19 (g) The salmon recovery funding board, RCW 77.85.110 through  
20 77.85.150;

21 (h) Other state financial assistance to water quality-related  
22 projects and activities; and

23 (i) Water quality financial assistance from federal programs  
24 administered through state programs or provided directly to local  
25 governments in the Puget Sound basin.

26 (2) The council's review shall include but not be limited to:

27 (a) Determining the level of funding and types of projects and  
28 activities funded through the programs specified in subsection (1) of  
29 this section that contribute to implementation of the Puget Sound  
30 agenda;

31 (b) Evaluating the procedures and criteria in each program for  
32 determining which projects and activities to fund, and the relationship  
33 to the goals and priorities of the Puget Sound agenda;

34 (c) Assessing methods for ensuring that the goals and priorities of  
35 the Puget Sound agenda are given strong consideration when program  
36 funding decisions are made regarding water quality-related projects and

1 activities in the Puget Sound basin and habitat-related projects and  
2 activities in the Puget Sound basin;

3 (d) Assessing ways to incorporate a strategic funding approach for  
4 the Puget Sound agenda within the outcome-focused performance measures  
5 required by RCW 43.41.270 in administering natural resource-related and  
6 environmentally based grant and loan programs;

7 (e) Assessing ways through the funding allocations for Puget Sound  
8 to reflect the geographic areas of Puget Sound for cleanup emphasis  
9 identified in the Puget Sound agenda;

10 (f) Evaluating the form of the assistance provided, such as low-  
11 interest and no-interest loans, grants, and technical assistance, and  
12 which forms of assistance are more appropriate in accomplishing  
13 different types of projects and activities needed for implementing the  
14 Puget Sound agenda;

15 (g) Whether entities that are private or quasi-public in nature and  
16 not now eligible to receive funding from the programs should be made  
17 eligible to seek funding, and what conditions upon funding would ensure  
18 that the public's interest in fiscal accountability and transparency in  
19 the use of public funds is protected;

20 (h) Whether additional types of projects or activities should be  
21 made eligible for funding where the projects or activities are  
22 consistent with the primary purposes of the program and will also  
23 contribute to implementation of the Puget Sound agenda;

24 (i) Whether state policies for the disposal, acquisition, or  
25 development of state lands are compatible or contrary to the goals and  
26 priorities of the Puget Sound agenda; and

27 (j) The rigor of evaluation of project application in each program  
28 regarding assumptions and estimations of project benefits, including  
29 contributions toward implementation of the Puget Sound agenda.

30 (3) The state agencies and boards administering the programs  
31 specified in subsection (1) of this section shall cooperate in  
32 providing to the council information as required for the council's  
33 review. The council shall provide its recommendations in draft form to  
34 each of the administering agencies and consider their comments prior to  
35 finalizing the council's review and recommendations.

36 (4) By November 1, 2008, the council shall provide a preliminary  
37 summary of its review and recommendations to the governor and  
38 appropriate fiscal and policy committees of the senate and house of

1 representatives. By November 1, 2009, the council shall provide final  
2 summary and recommendations, including proposed legislation to  
3 implement the recommendation, to the governor and appropriate fiscal  
4 and policy committees of the senate and house of representatives.

5 NEW SECTION. **Sec. 7.** Sections 1, 2, 4, and 5 of this act take  
6 effect July 1, 2008.

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