

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE SENATE BILL 6263

Chapter 252, Laws of 2012
(partial veto)

62nd Legislature
2012 Regular Session

MARINE MANAGEMENT PLANNING

EFFECTIVE DATE: 06/07/12

Passed by the Senate March 3, 2012
YEAS 49 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House March 1, 2012
YEAS 90 NAYS 7

FRANK CHOPP

Speaker of the House of Representatives

Approved March 30, 2012, 1:35 p.m., with
the exception of Sections 5 and 6 which
are vetoed.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of
the Senate of the State of
Washington, do hereby certify that
the attached is **SECOND SUBSTITUTE
SENATE BILL 6263** as passed by the
Senate and the House of
Representatives on the dates
hereon set forth.

THOMAS HOEMANN

Secretary

FILED

March 30, 2012

**Secretary of State
State of Washington**

SECOND SUBSTITUTE SENATE BILL 6263

AS AMENDED BY THE HOUSE

Passed Legislature - 2012 Regular Session

State of Washington 62nd Legislature 2012 Regular Session

By Senate Ways & Means (originally sponsored by Senators Ranker, Hargrove, Delvin, Litzow, Swecker, Rolfes, Schoesler, Kilmer, Fraser, Kohl-Welles, Hobbs, and Hatfield)

READ FIRST TIME 02/07/12.

1 AN ACT Relating to facilitating marine management planning;
2 amending RCW 43.372.020, 43.372.030, 43.372.040, and 43.372.070; adding
3 new sections to chapter 43.143 RCW; and creating a new section.

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

5 **Sec. 1.** RCW 43.372.020 and 2010 c 145 s 3 are each amended to read
6 as follows:

7 (1) The office of the governor shall chair a marine interagency
8 team that is composed of representatives of each of the agencies in the
9 governor's natural resources cabinet with management responsibilities
10 for marine waters, including the independent agencies. A
11 representative from a federal agency with lead responsibility for
12 marine spatial planning must be invited to serve as a liaison to the
13 team to help ensure consistency with federal actions and policy. The
14 team must (~~conduct the assessment authorized in section 4, chapter~~
15 ~~145, Laws of 2010,~~) assist state agencies under RCW 43.372.030 with
16 the review and coordination of such planning with their existing and
17 ongoing planning((7)) and conduct the marine management planning
18 authorized in RCW 43.372.040.

1 (2) The team may not commence any activities authorized under RCW
2 43.372.030 and 43.372.040 until federal, private, or other ((nonstate))
3 funding is secured specifically for these activities.

4 **Sec. 2.** RCW 43.372.030 and 2010 c 145 s 5 are each amended to read
5 as follows:

6 (1) ~~((Concurrently or prior to the assessment and planning
7 activities provided in section 4, chapter 145, Laws of 2010 and RCW
8 43.372.040, and))~~ Subject to available federal, private, or other
9 ((nonstate)) funding for this purpose, all state agencies with marine
10 waters planning and management responsibilities are authorized to
11 include marine spatial data and marine spatial planning elements into
12 their existing plans and ongoing planning.

13 (2) The director of the Puget Sound partnership under the direction
14 of the leadership council created in RCW 90.71.220 must integrate
15 marine spatial information and planning provisions into the action
16 agenda. The information should be used to address gaps or improve the
17 effectiveness of the spatial planning component of the action agenda,
18 such as in addressing potential new uses such as renewable energy
19 projects.

20 (3) The governor and the commissioner of public lands, working with
21 appropriate marine management and planning agencies, should work
22 cooperatively with the applicable west coast states, Canadian
23 provinces, and with federal agencies, through existing cooperative
24 entities such as the west coast governor's agreement on ocean health,
25 the coastal and oceans task force, the Pacific coast collaborative, the
26 Puget Sound federal caucus, and the United States and Canada
27 cooperative agreement working group, to explore the benefits of
28 developing joint marine spatial plans or planning frameworks in the
29 shared waters of the Salish Sea, the Columbia river estuary, and in the
30 exclusive economic zone waters. The governor and commissioner may
31 approve the adoption of shared marine spatial plans or planning
32 frameworks where they determine it would further policies of this
33 chapter and chapter 43.143 RCW.

34 (4) On an ongoing basis, the director of the department of ecology
35 shall work with other state agencies with marine management
36 responsibilities, tribal governments, marine resources committees,
37 local and federal agencies, and marine waters stakeholders to compile

1 marine spatial information and to incorporate this information into
2 ongoing plans. This work may be integrated with the comprehensive
3 marine management plan authorized under RCW 43.372.040 when that
4 planning process is initiated.

5 (5) All actions taken to implement this section must be consistent
6 with RCW 43.372.060.

7 **Sec. 3.** RCW 43.372.040 and 2010 c 145 s 6 are each amended to read
8 as follows:

9 (1) Upon the receipt of federal, private, or other ~~((nonstate))~~
10 funding for this purpose, ~~((together with any required match of state~~
11 ~~funding that may be specifically provided for this purpose,))~~ the
12 marine interagency team shall coordinate the development of a
13 comprehensive marine management plan for the state's marine waters. The
14 marine management plan must include marine spatial planning, as well as
15 recommendations to the appropriate federal agencies regarding the
16 exclusive economic zone waters.

17 (2) The comprehensive marine management plan may be developed in
18 geographic segments, and may incorporate or be developed as an element
19 of existing marine plans, such as the Puget Sound action agenda. If
20 the team exercises the option to develop the comprehensive marine
21 management plan in geographic segments, it may proceed with development
22 and adoption of marine management plans for these geographic segments
23 on different schedules.

24 (3) The chair of the team may designate a state agency with marine
25 management responsibilities to take the lead in developing and
26 recommending to the team particular segments or elements of the
27 comprehensive marine management plan.

28 ~~((+2))~~ (4) The marine management plan must be developed and
29 implemented in a manner that:

- 30 (a) Recognizes and respects existing uses and tribal treaty rights;
- 31 (b) Promotes protection and restoration of ecosystem processes to
32 a level that will enable long-term sustainable production of ecosystem
33 goods and services;

34 (c) Addresses potential impacts of climate change and sea level
35 rise upon current and projected marine waters uses and shoreline and
36 coastal impacts;

1 (d) Fosters and encourages sustainable uses that provide economic
2 opportunity without significant adverse environmental impacts;

3 (e) Preserves and enhances public access;

4 (f) Protects and encourages working waterfronts and supports the
5 infrastructure necessary to sustain marine industry, commercial
6 shipping, shellfish aquaculture, and other water-dependent uses;

7 (g) Fosters public participation in decision making and significant
8 involvement of communities adjacent to the state's marine waters; and

9 (h) Integrates existing management plans and authorities and makes
10 recommendations for aligning plans to the extent practicable.

11 ~~((3))~~ (5) To ensure the effective stewardship of the state's
12 marine waters held in trust for the benefit of the people, the marine
13 management plan must rely upon existing data and resources, but also
14 identify data gaps and, as possible, procure missing data necessary for
15 planning.

16 ~~((4))~~ (6) The marine management plan must include but not be
17 limited to:

18 (a) An ecosystem assessment that analyzes the health and status of
19 Washington marine waters including key social, economic, and ecological
20 characteristics and incorporates the best available scientific
21 information, including relevant marine data. This assessment should
22 seek to identify key threats to plan goals, analyze risk and management
23 scenarios, and develop key ecosystem indicators. In addition, the plan
24 should incorporate existing adaptive management strategies underway by
25 local, state, or federal entities and provide an adaptive management
26 element to incorporate new information and consider revisions to the
27 plan based upon research, monitoring, and evaluation;

28 (b) Using and relying upon existing plans and processes and
29 additional management measures to guide decisions among uses proposed
30 for specific geographic areas of the state's marine and estuarine
31 waters consistent with applicable state laws and programs that control
32 or address developments in the state's marine waters;

33 (c) A series of maps that, at a minimum, summarize available data
34 on: The key ecological aspects of the marine ecosystem, including
35 physical and biological characteristics, as well as areas that are
36 environmentally sensitive or contain unique or sensitive species or
37 biological communities that must be conserved and warrant protective
38 measures; human uses of marine waters, particularly areas with high

1 value for fishing, shellfish aquaculture, recreation, and maritime
2 commerce; and appropriate locations with high potential for renewable
3 energy production with minimal potential for conflicts with other
4 existing uses or sensitive environments;

5 (d) An element that sets forth the state's recommendations to the
6 federal government for use priorities and limitations, siting criteria,
7 and protection of unique and sensitive biota and ocean floor features
8 within the exclusive economic zone waters consistent with the policies
9 and management criteria contained in this chapter and chapter 43.143
10 RCW;

11 (e) An implementation strategy describing how the plan's management
12 measures and other provisions will be considered and implemented
13 through existing state and local authorities; and

14 (f) A framework for coordinating state agency and local government
15 review of proposed renewable energy development uses requiring multiple
16 permits and other approvals that provide for the timely review and
17 action upon renewable energy development proposals while ensuring
18 protection of sensitive resources and minimizing impacts to other
19 existing or projected uses in the area.

20 ((+5)) (7) If the director of the department of fish and wildlife
21 determines that a fisheries management element is appropriate for
22 inclusion in the marine management plan, this element may include the
23 incorporation of existing management plans and procedures and standards
24 for consideration in adopting and revising fisheries management plans
25 in cooperation with the appropriate federal agencies and tribal
26 governments.

27 ((+6)) (8) Any provision of the marine management plan that does
28 not have as its primary purpose the management of commercial or
29 recreational fishing but that has an impact on this fishing must
30 minimize the negative impacts on the fishing. The team must accord
31 substantial weight to recommendations from the director of the
32 department of fish and wildlife for plan revisions to minimize the
33 negative impacts.

34 ((+7)) (9) The marine management plan must recognize and value
35 existing uses. All actions taken to implement this section must be
36 consistent with RCW 43.372.060.

37 ((+8)) (10) The marine management plan must identify any

1 provisions of existing management plans that are substantially
2 inconsistent with the plan.

3 ~~((9))~~ (11)(a) In developing the marine management plan, the team
4 shall implement a strong public participation strategy that seeks input
5 from throughout the state and particularly from communities adjacent to
6 marine waters. Public review and comment must be sought and
7 incorporated with regard to planning the scope of work as well as in
8 regard to significant drafts of the plan and plan elements.

9 (b) The team must engage tribes and marine resources committees in
10 its activities throughout the planning process. In particular, prior
11 to finalizing the plan, the team must provide each tribe and marine
12 resources committee with a draft of the plan and invite them to review
13 and comment on the plan.

14 ~~((10) The team must complete the plan within twenty four months of
15 the initiation of planning under this section.~~

16 ~~((11))~~ (12) The director of the department of ecology shall submit
17 the completed marine management plan to the appropriate federal agency
18 for its review and approval for incorporation into the state's
19 federally approved coastal zone management program.

20 ~~((12))~~ (13) Subsequent to the adoption of the marine management
21 plan, the team may periodically review and adopt revisions to the plan
22 to incorporate new information and to recognize and incorporate
23 provisions in other marine management plans. The team must afford the
24 public an opportunity to review and comment upon significant proposed
25 revisions to the marine management plan.

26 **Sec. 4.** RCW 43.372.070 and 2011 c 250 s 2 are each amended to read
27 as follows:

28 (1) The marine resources stewardship trust account is created in
29 the state treasury. All receipts from income derived from the
30 investment of amounts credited to the account, any grants, gifts, or
31 donations to the state for the purposes of marine management planning,
32 marine spatial planning, data compilation, research, or monitoring, and
33 any appropriations made to the account must be deposited in the
34 account. Moneys in the account may be spent only after appropriation.

35 (2) Expenditures from the account may only be used for the purposes
36 of marine management planning, marine spatial planning, research,

1 monitoring, and implementation of the marine management plan(~~(, and for~~
2 ~~the restoration or enhancement of marine habitat or resources)~~).

3 (3) (~~When moneys are deposited into the marine resources~~
4 ~~stewardship trust account, the governor must provide recommendations on~~
5 ~~expenditures from the account to the appropriate committees of the~~
6 ~~legislature prior to the next regular legislative session. The~~
7 ~~recommended projects and activities must be consistent with:~~

8 ~~(a) The allowable uses of the marine resources stewardship trust~~
9 ~~account; and~~

10 ~~(b) The priority areas identified in))~~ Until July 1, 2016,
11 expenditures from the account may only be used for the purposes of:

12 (a) Conducting ecosystem assessment and mapping activities in
13 marine waters consistent with RCW 43.372.040(6) (a) and (c), with a
14 focus on assessment and mapping activities related to marine resource
15 uses and developing potential economic opportunities;

16 (b) Developing a marine management plan for the state's coastal
17 waters as that term is defined in RCW 43.143.020; and

18 (c) Coordination under the west coast governors' agreement on ocean
19 health, entered into on September 18, 2006, (~~and recognized in section~~
20 ~~1, chapter 250, Laws of 2011)) and other regional planning efforts
21 consistent with RCW 43.372.030.~~

22 ****NEW SECTION. Sec. 5. A new section is added to chapter 43.143 RCW***
23 ***to read as follows:***

24 ***(1)(a) The Washington state coastal solutions council is***
25 ***established in the executive office of the governor to fulfill the***
26 ***duties established in section 6 of this act. The council is composed***
27 ***of the following nonvoting members:***

28 ***(i) The governor or the governor's designee;***

29 ***(ii) The director or commissioner, or the director's or***
30 ***commissioner's designee, of the following agencies:***

31 ***(A) The department of ecology;***

32 ***(B) The department of natural resources;***

33 ***(C) The department of fish and wildlife;***

34 ***(D) The state parks and recreation commission; and***

35 ***(E) The department of commerce.***

36 ***(b) The following members of the coastal advisory body on ocean***

1 policy formed by the department of ecology in December 2011 are the
2 initial voting members of the council:

- 3 (i) A citizen from a coastal community;
- 4 (ii) Two representatives from commercial fishing associations;
- 5 (iii) A representative from a coastal conservation group;
- 6 (iv) A representative from a coastal economic development group;
- 7 (v) A representative from an educational institution;
- 8 (vi) A person representing recreation;
- 9 (vii) A representative from a recreational fishing organization;
- 10 (viii) A person representing shellfish aquaculture;
- 11 (ix) A representative from the shipping industry;
- 12 (x) A representative from a science organization; and
- 13 (xi) A representative from each outer coast marine resources
14 committee, to be selected by the marine resources committee.

15 (c) The council must adopt bylaws addressing future membership of
16 the council as well as how vacancies in the membership will be filled.

17 (d) The council must adopt bylaws addressing future membership of
18 the coastal advisory body on ocean policy as well as how vacancies in
19 the membership will be filled.

20 (2) The council may invite state, tribal, local governments, and
21 federal agencies with responsibility for the study and management of
22 ocean resources or regulation of ocean activities to designate a
23 liaison to the council to attend council meetings, respond to council
24 requests for technical and policy information, and review any draft
25 materials prepared by the council. The council may also invite
26 representatives from other coastal states or Canadian provinces to
27 participate when appropriate as nonvoting members.

28 (3) A voting member identified under subsection (1)(b) of this
29 section must serve as the chair of the council. The term of the chair
30 is one year. The initial chair of the council must be nominated and
31 elected by a majority of voting councilmembers at the first meeting of
32 the council. The chair's term begins on the effective date of this
33 section. At the expiration of each chair's term, the next chair must
34 be nominated and elected by a majority of voting councilmembers. The
35 agenda for each meeting must be developed as a collaborative process by
36 voting and nonvoting members.

37 (4) The council shall utilize a consensus approach to decision
38 making among voting and nonvoting members. The council may put a

1 decision to a vote among voting members only, in the event that
2 consensus cannot be reached. The council must include in its bylaws
3 guidelines describing how consensus works and when a lack of consensus
4 among councilmembers will trigger a vote by voting members only.

5 (5) If nonstate funding is secured, the council may hire a neutral
6 convener to assist it in the performance of its duties, including but
7 not limited to establishing bylaws and setting meeting agenda.

8 (6) The department of ecology shall provide administrative and
9 staff support for the council.

10 (7) The council must meet at least twice each year.

11 (8) A majority of the voting members of the council constitutes a
12 quorum for the transaction of business.

13 (9) The term of office of each member appointed by the governor, or
14 the governing body of a county, is four years. Members are eligible
15 for reappointment.

*Sec. 5 was vetoed. See message at end of chapter.

16 *NEW SECTION. Sec. 6. A new section is added to chapter 43.143 RCW
17 to read as follows:

18 The duties of the Washington state coastal solutions council
19 created in section 5 of this act are to:

20 (1) Serve as a forum for communication in order to seek consistency
21 in state, local, and tribal policies concerning coastal waters issues,
22 including issues relating to resource management, fisheries, shellfish
23 aquaculture, marine and coastal hazards, ocean energy, and coastal
24 waters research and education issues;

25 (2) Serve as a point of contact for, and collaborate with, the
26 federal government, regional entities, and other state governments,
27 regarding coastal waters issues;

28 (3) Provide a forum to discuss coastal waters resource policy,
29 planning, and management issues, and, when appropriate, mediate
30 disagreements;

31 (4) Serve as an interagency resource to respond to issues facing
32 coastal communities and coastal waters resources in a collaborative
33 manner;

34 (5) Identify and pursue public and private funding opportunities
35 for the programs and activities of the council, and for relevant
36 programs and activities of member entities;

1 (6) Provide policy recommendations to the governor, the
2 legislature, and state and local agencies on specific coastal waters
3 resource management issues including:

4 (a) Principles and standards required for emerging new coastal
5 uses;

6 (b) Data gaps and opportunities for scientific research addressing
7 coastal needs and concerns;

8 (c) Implementation of Washington's ocean action plan 2006;

9 (d) Development and implementation of coast-wide goals and
10 strategies including marine spatial planning; and

11 (e) A coastal perspective regarding cross-boundary coastal issues;

12 (7) Establish bylaws based on existing documents of the coastal
13 advisory body on ocean policy referred to under section 5(1)(b) of this
14 act.

*Sec. 6 was vetoed. See message at end of chapter.

15 NEW SECTION. **Sec. 7.** If specific funding for the purposes of this
16 act, referencing this act by bill or chapter number, is not provided by
17 June 30, 2012, in the omnibus appropriations act, this act is null and
18 void.

Passed by the Senate March 3, 2012.

Passed by the House March 1, 2012.

Approved by the Governor March 30, 2012, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State March 30, 2012.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Sections 5 and 6,
Second Substitute Senate Bill 6263 entitled:

"AN ACT Relating to facilitating marine management planning."

Sections 5 and 6 of the bill would establish the membership and duties
of a new Washington State Coastal Solutions Council. Among other
duties, this Council would provide a forum to seek consistency in
state, local, and tribal policies concerning coastal waters issues;
engage other governments on behalf of the state; and provide policy
recommendations to the governor, the Legislature, and state and local
agencies on specific coastal waters resource management issues.

It is unclear how the Council would exercise these substantial duties
in relation to the agencies with jurisdiction, which could participate
only as nonvoting members. While the Council would be located within
the Governor's Office, the Council would determine its own membership
and be an autonomous body. As we look to regain our strength in the
post-recession economy, now is not the time to be creating new state
commissions. I remain committed to an efficient, lean government
that will better serve the citizens of this state.

I fully agree with the legislative intent to directly engage our
coastal communities and give them a stronger voice in shaping their
future. To that purpose, I will assign a representative from my

office to actively participate in the existing Coastal Advisory Board convened by the Department of Ecology.

For these reasons, I have vetoed Sections 5 and 6 of Second Substitute Senate Bill 6263.

With the exception of Sections 5 and 6, Second Substitute Senate Bill 6263 is approved."