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SENATE BILL 5773

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State of Washington                      53rd Legislature                      1993 Regular Session

By Senators Fraser and Barr

Read first time 02/12/93. Referred to Committee on Energy & Utilities.

1            AN ACT Relating to coordinated water resources programs; adding a  
2 new section to chapter 43.155 RCW; adding a new section to chapter  
3 70.146 RCW; adding a new section to chapter 90.50A RCW; adding new  
4 sections to chapter 36.70A RCW; and creating new sections.

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

6            NEW SECTION.        **Sec. 1.**        The legislature makes the following  
7 findings:

8            (1) Federal agencies, state agencies, counties, cities, Indian  
9 tribes, and special districts are all engaged in a multitude of  
10 planning and management efforts designed to protect and enhance the  
11 quality and quantity of water within the state;

12            (2) The growth management act sets broad goals for counties and  
13 cities to develop comprehensive plans for sustainable economic  
14 development, environmental protection, and provision of adequate  
15 capital facilities but fails to provide direction for integrating water  
16 resources planning and policy with growth planning efforts;

17            (3) The Chelan Agreement establishes a cooperative process that may  
18 be useful for coordinating comprehensive water resources management  
19 with growth management planning;

1 (4) Implementation of the growth management act and ongoing water  
2 resources planning and management efforts should support each other and  
3 be logically consistent;

4 (5) Steadily increasing population within the state and the  
5 distressed condition of anadromous fisheries both require intensive  
6 planning and management to ensure adequate quality and quantity of  
7 water resources for human populations and the integrity of ecosystems;

8 (6) New federal and state regulatory requirements for managing  
9 storm water, protecting drinking water supply, and managing other  
10 aspects of water resources increase the need for counties to integrate  
11 planning and management activities involving both land use and water  
12 resources;

13 (7) Efforts should be made to combine financial resources for  
14 planning, capital expenditures, facility operations and maintenance,  
15 water quality monitoring, and public education at the state and local  
16 level and to eliminate waste and duplication in planning and management  
17 of water resources;

18 (8) As the subdivision of state government responsible for adopting  
19 county-wide planning policies, counties are well-suited to coordinate  
20 and, where appropriate, consolidate governmental water resources  
21 planning and management efforts on a watershed or island-wide basis in  
22 order to ensure local accountability, consistency with growth planning  
23 activities, protection of the public health and the environment, and  
24 maximize public participation, in the most effective and cost-efficient  
25 manner; and

26 (9) Existing state and local financial resources and financing  
27 mechanisms are inadequate for counties to efficiently and effectively  
28 plan for and participate in the management of water resources.

29 NEW SECTION. **Sec. 2.** The purpose of this act is to encourage  
30 coordination of state, local, and tribal programs involving water  
31 resources planning, management, permitting, and funding on a watershed  
32 or island-wide basis, and to encourage consolidation of these efforts  
33 where appropriate. The coordinated program established in this act is  
34 intended to emphasize local accountability, consistency with growth  
35 planning activities, and protection of the public health and the  
36 environment in a cost-efficient manner.

1        NEW SECTION.    **Sec. 3.**    DEFINITIONS.    Unless the context clearly  
2 requires otherwise, as used in sections 3 through 7, 12, and 13, and  
3 sections 8, 9, and 10 of this act, "water resources" shall be broadly  
4 construed to mean and include surface water, ground water, marine  
5 waters, and the general aquatic ecosystem, and includes activities  
6 involving water quality, wetlands, and the riparian zone.

7        NEW SECTION.    **Sec. 4.**    COORDINATED WATER RESOURCES PROGRAM--  
8 ESTABLISHMENT.    (1) A county or counties that are required to or choose  
9 to plan under RCW 36.70A.040 may assume the responsibility for  
10 coordinating the planning and management of some or all water resources  
11 on a watershed or island-wide basis within all or a portion of the  
12 county or counties, consistent with the policies and goals of this  
13 chapter and those purposes, policies, and goals of the state regarding  
14 water resources specified elsewhere in statute, including but not  
15 limited to the purposes, policies, and goals set forth in RCW  
16 90.54.010, 90.54.020, 90.03.005, 90.48.010, and 90.58.020.    Action  
17 taken by a county that is required to or chooses to plan under RCW  
18 36.70A.040 to coordinate the planning and management of water resources  
19 shall be known as a coordinated water resources program.

20        (2)(a) The legislative authority of any county that is required to  
21 or chooses to plan under RCW 36.70A.040 may by resolution establish a  
22 coordinated water resources program.    The purpose of a coordinated  
23 water resources program is the development of an efficient and  
24 effective system of protecting, preserving, rehabilitating, enhancing,  
25 and managing, on a watershed or island-wide basis, the water resources  
26 located within all or part of a county or counties.    The boundaries of  
27 a watershed shall be agreed upon by the participants in the process.

28        (b) A county legislative authority proposing to establish a  
29 coordinated water resources program shall consult with affected cities,  
30 tribes, and special districts in developing its proposal before  
31 scheduling the proposal for a public hearing.    The county, in  
32 cooperation with the affected cities, tribes, and special districts  
33 shall conduct at least one public hearing on the proposal.    Notice of  
34 the hearing shall be published at least once, not less than ten days  
35 before the hearing, in a newspaper of general circulation within the  
36 area of the proposed coordinated water resources program.    The public  
37 hearing may be continued to other times, dates, and places announced at  
38 the hearing, without publication of the continuance.    At the public

1 hearing, the county legislative authority shall hear objections and  
2 comments from anyone interested in the proposal to establish the  
3 program.

4 (3)(a) A county or counties establishing a coordinated water  
5 resources program is encouraged to use the cooperative process  
6 established by the Chelan Agreement to reach agreement on determining  
7 the boundaries of the watersheds to be addressed and how to coordinate  
8 the planning and management of water resources within one or more  
9 watersheds or upon one or more islands.

10 (b) At a minimum, a county or counties coordinating the planning  
11 and management of water resources on a watershed or island-wide basis  
12 within all or a portion of the county or counties shall work with the  
13 department of ecology, the department of health, affected Indian  
14 tribes, the local health department or district, affected cities within  
15 the watershed or upon the island, and special districts within the  
16 watershed or upon the island to determine how coordination of the  
17 planning and management of water resources within the watershed or upon  
18 the island shall occur. If a watershed is located in more than one  
19 county, each of the counties in which the watershed is located should  
20 participate in the coordinated effort described in this section,  
21 regardless of whether all of the counties are required to or choose to  
22 plan under RCW 36.70A.040.

23 (c) Where appropriate, a county planning under this section shall  
24 invite the participation of the Puget Sound water quality authority in  
25 developing the coordinated water resources program.

26 (d) A county planning under this section should invite the  
27 participation of the department of natural resources, department of  
28 fisheries, department of wildlife, other interested state agencies,  
29 relevant agencies of the federal government, and other public and  
30 private interested parties.

31 (e) After convening the necessary parties and agreeing upon the  
32 boundaries of the watersheds or islands included in the coordinated  
33 water resources program, the county legislative authority shall by  
34 resolution or ordinance describe the boundaries of the coordinated  
35 water resources program, and to the extent possible, describe its scope  
36 and the plan for coordinated planning and management of water resources  
37 within its boundaries.

38 (4) Establishment of a coordinated water resources program shall  
39 not be construed as requiring the transfer of duties or

1 responsibilities from any established state, local, city, or tribal  
2 program or from any district that exists that addresses water resource  
3 management. However, a county establishing a coordinated water  
4 resources program shall evaluate existing programs and districts it has  
5 established for the management of water resources and determine whether  
6 any should be eliminated. The participants in the program also shall  
7 evaluate whether other existing programs or districts should be  
8 eliminated or consolidated to eliminate duplication of services or  
9 improve efficient management of water resources.

10 NEW SECTION. **Sec. 5.** COORDINATED WATER RESOURCES PROGRAM. (1)

11 Under a coordinated water resources program a county may consolidate,  
12 combine, or otherwise coordinate its planning and management activities  
13 that occur within the watershed or upon the island:

14 (a) Inventorying, researching, measuring, and ranking the quantity  
15 and quality of subterranean waters and bodies of water;

16 (b) Preparing and administering a coordinated program to protect,  
17 preserve, rehabilitate, and manage ground water and bodies of water,  
18 and to control and treat surface water, including but not limited to,  
19 point and nonpoint water pollution abatement programs and activities;

20 (c) Protecting, preserving, rehabilitating, and managing ground  
21 water and bodies of water;

22 (d) Establishing a coordinated system of rates, charges, and  
23 assessments, as authorized under this chapter or any other specific law  
24 relating to these policies that a county is authorized to adopt;

25 (e) Encouraging public participation and providing educational  
26 programs related to the protection, preservation, rehabilitation, and  
27 management of ground water and bodies of water, including, but not  
28 limited to programs related to household hazardous and dangerous  
29 wastes, aquifer protection, and wellhead protection;

30 (f) Providing technical and financial assistance for public water  
31 systems;

32 (g) Cooperating with other units of state and local government and  
33 engaging in joint programs and projects;

34 (h) Providing assistance to conservation districts to perform  
35 activities related to protecting and restoring water quality and  
36 quantity; and

37 (i) Providing assistance to the local health district in carrying  
38 out its functions in protecting water supplies, including monitoring

1 the installation, and inspection and maintenance of on-site sewage  
2 disposal systems.

3 (2) The authorities and responsibilities of a county that may be  
4 included in a coordinated water resources program include, but are not  
5 limited to, the following authorities and responsibilities granted to  
6 counties and boards of health:

7 (a) Protecting the public health and safety, including, but not  
8 limited to, the authority granted in Article XI, section 11 of the  
9 state Constitution and RCW 36.32.120 and 70.05.050;

10 (b) All public health powers delegated to counties and boards of  
11 health by the state or federal governments;

12 (c) Regulating potable water systems and protecting potable water  
13 systems from point or nonpoint pollution, including, but not limited  
14 to, the powers provided under chapters 70.119A and 43.20 RCW;

15 (d) Regulating on-site sewage disposal systems, as provided in  
16 chapter 70.118 RCW;

17 (e) Declaring and abating public nuisances causing harm to or  
18 threatening subterranean bodies of water, including those public  
19 nuisances enumerated under RCW 7.48.140 and 35.88.030;

20 (f) Implementing plans and rules to protect the water quality of  
21 Puget Sound and other bodies of water, including plans adopted under  
22 chapter 90.70 RCW;

23 (g) Establishing aquifer protection areas, as provided in chapter  
24 36.36 RCW;

25 (h) Establishing lake management districts, as provided in chapter  
26 36.61 RCW;

27 (i) Establishing shellfish protection districts and programs, as  
28 provided in chapter 90.72 RCW;

29 (j) Engaging in flood control, drainage control, and storm water  
30 control activities, as authorized in chapters 86.12 and 86.13 RCW;

31 (k) Providing systems of sewerage, sewerage utilities, systems of  
32 water and water utilities, and surface water systems, as authorized in  
33 chapter 36.94 RCW;

34 (l) Establishing a storm water utility and providing storm water  
35 control programs and facilities, as provided in chapters 36.89 and  
36 36.94 RCW;

37 (m) Identifying and monitoring ground water systems and engaging in  
38 ground water management programs, as provided in chapter 90.44 RCW;

1 (n) Establishing critical water supply service areas and  
2 identifying satellite system management agencies, as provided in  
3 chapter 70.116 RCW;

4 (o) Engaging in water pollution control activities relating to both  
5 point and nonpoint water pollution;

6 (p) Enforcing laws relating to water and water quality, including,  
7 but not limited to RCW 90.54.010 through 90.54.030;

8 (q) Regulating watercourses, as provided in RCW 36.32.280 through  
9 36.32.300;

10 (r) Exercising powers under the water quality joint development  
11 act, chapter 70.150 RCW;

12 (s) Undertaking activities designed to protect wellheads;

13 (t) Development and implementation of a coordinated water system  
14 plan, under the authority of chapter 70.119 RCW;

15 (u) Identification and protection of wetlands as required under RCW  
16 36.70A.060(2);

17 (v) Identification and protection of critical aquifer recharge  
18 areas as required under RCW 36.70A.060(2);

19 (w) Identification and protection of fish and wildlife habitat  
20 areas as required under RCW 36.70A.060(2);

21 (x) Identification and protection of frequently flooded areas as  
22 required under RCW 36.70A.060(2);

23 (y) Receivership responsibility for public water systems under  
24 chapter 43.70 RCW, if no other person is willing and able to be named  
25 as receiver; and

26 (z) Planning and regulation of shorelines under chapter 90.58 RCW.

27 (3) A coordinated water resources program may also address, with  
28 the joint agreement of the county and the appropriate unit of state  
29 government:

30 (a) The role of a county in the review of water rights  
31 applications;

32 (b) The role of a county in the review or issuance of hydraulics  
33 permits;

34 (c) County participation in watershed analysis conducted pursuant  
35 to the forest practices act, chapter 76.09 RCW; and

36 (d) Other functions of the department of ecology, the department of  
37 health, or other state agencies that may be delegated to a county to  
38 improve efficiency in the planning and management of water resources.

1        NEW SECTION.    **Sec. 6.**    COORDINATED WATER RESOURCES DISTRICTS.    (1)

2    A county or counties that have established a coordinated water  
3    resources program may by ordinance establish a coordinated water  
4    resources district or districts based on the boundaries of the program,  
5    or the watersheds or islands that comprise the boundaries of the  
6    program, for the purpose of financing the local elements of the  
7    coordinated water resources program.    Where the district includes  
8    territory located within a city or town, the county shall coordinate  
9    and cooperate with the city or town in establishing the district, in  
10    establishing and collecting fees or charges to be collected within the  
11    incorporated area, and in carrying out the elements of the coordinated  
12    water resources program within the city or town.

13        (2) The coordinated water resources district may finance the local  
14    elements of the coordinated water resources program through any  
15    combination of:

16        (a) Tax revenues;

17        (b) Inspection fees and similar fees for services performed;

18        (c) Charges or rates; and

19        (d) Federal, state, or private grants.

20        (3) Any charges, rates, or fees established to finance a  
21    coordinated water resources program shall be reasonably related to the  
22    benefits to be received and the harms to be prevented by the properties  
23    within the watershed or upon the island.    The ordinance establishing  
24    the district may specify a maximum percentage of any charges, rates, or  
25    fees that may be used for the purposes of planning and public  
26    education.

27        (4) The county or counties may contract with existing public  
28    utilities to collect the fees or charges, or collect the fees or  
29    charges itself.    The level of fees for the district may be established  
30    at a reduced level upon the residential property of a class or classes  
31    of low-income persons.    No other charge, rate, or fee may be assessed  
32    within the boundaries of the district or districts for an element of  
33    the coordinated water resources program that is funded through a  
34    charge, rate, or fee imposed by the district.

35        NEW SECTION.    **Sec. 7.**    WATER RESOURCES REVENUE.    (1) A county,

36    city, or special district may authorize up to five percent of existing  
37    revenues collected within the watershed from sources identified in  
38    section 5(2) of this act or other water resources revenue sources to

1 establish a coordinated water resources district, watershed planning,  
2 public education and participation, and coordination of management  
3 within the watershed.

4 (2) No city or special district may impose an additional tax or fee  
5 on services provided outside its boundaries for the purposes in  
6 subsection (1) of this section without the approval of the general  
7 purpose government in whose jurisdiction the property is located or the  
8 service provided.

9 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.155 RCW  
10 as follows:

11 The department of community development shall give priority in  
12 awarding grants or loans from the public works trust fund to applicants  
13 participating in implementing elements of a coordinated water resources  
14 program.

15 NEW SECTION. **Sec. 9.** A new section is added to chapter 70.146 RCW  
16 to read as follows:

17 The department of ecology shall give priority in awarding grants or  
18 loans from the water quality account to applicants participating in  
19 implementing elements of a coordinated water resources program.

20 NEW SECTION. **Sec. 10.** A new section is added to chapter 90.50A  
21 RCW to read as follows:

22 The department of ecology shall give priority in awarding grants or  
23 loans from the water pollution control revolving fund to applicants  
24 participating in implementing elements of a coordinated water resources  
25 program.

26 NEW SECTION. **Sec. 11.** The office of financial management shall  
27 work with the department of ecology, the department of health, and the  
28 department of community development to develop a proposal (1) to  
29 combine current funding sources available for local governments to  
30 engage in a coordinated water resources program and (2) to provide new  
31 state matching funds for counties that implement a coordinated water  
32 resources program. The proposal shall be submitted to the legislature  
33 by November 1, 1993.

1        NEW SECTION.    **Sec. 12.**    State agencies shall coordinate planning,  
2    permitting, and management activities in those watersheds or upon those  
3    islands in which a county or counties have established a coordinated  
4    water resources program.

5        NEW SECTION.    **Sec. 13.**    Sections 3 through 7 and 12 of this act  
6    shall not be construed to reduce or eliminate any existing authority of  
7    any state agency or any Indian tribe.

8        NEW SECTION.    **Sec. 14.**    Captions used in sections 3 through 7 of  
9    this act do not constitute any part of the law.

10       NEW SECTION.    **Sec. 15.**    Sections 3 through 7, 12, and 13 of this  
11    act are each added to chapter 36.70A RCW.

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