
SENATE BILL 6471

State of Washington

58th Legislature

2004 Regular Session

By Senators Haugen, Stevens, Doumit and Mulliken

Read first time 01/21/2004. Referred to Committee on Land Use & Planning.

1 AN ACT Relating to flood control; and amending RCW 86.12.200,
2 86.12.210, 43.155.020, and 86.26.060.

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

4 **Sec. 1.** RCW 86.12.200 and 1991 c 322 s 3 are each amended to read
5 as follows:

6 The county legislative authority of any county may adopt a
7 comprehensive flood control management plan for any drainage basin that
8 is located wholly or partially within the county. A flood control or
9 other district organized under Title 85 RCW located within the county
10 may initiate and conduct the preparation of a comprehensive flood
11 control management plan with the concurrence of the county legislative
12 authority.

13 A comprehensive flood control management plan shall include the
14 following elements:

15 (1) Designation of areas that are susceptible to periodic flooding,
16 from inundation by bodies of water or surface water runoff, or both,
17 including the river's meander belt or floodway;

18 (2) Establishment of a comprehensive scheme of flood control
19 protection and improvements for the areas that are subject to such

1 periodic flooding, that includes: (a) Determining the need for, and
2 desirable location of, flood control improvements to protect or
3 preclude flood damage to structures, works, and improvements, based
4 upon a cost/benefit ratio between the expense of providing and
5 maintaining these improvements and the benefits arising from these
6 improvements; (b) establishing the level of flood protection that each
7 portion of the system of flood control improvements will be permitted;
8 (c) identifying alternatives to in-stream flood control work; (d)
9 identifying areas where flood waters could be directed during a flood
10 to avoid damage to buildings and other structures; and (e) identifying
11 sources of revenue that will be sufficient to finance the comprehensive
12 scheme of flood control protection and improvements;

13 (3) Establishing land use regulations that preclude the location of
14 structures, works, or improvements in critical portions of such areas
15 subject to periodic flooding, including a river's meander belt or
16 floodway, and permitting only flood-compatible land uses in such areas;

17 (4) Establishing restrictions on construction activities in areas
18 subject to periodic floods that require the flood proofing of those
19 structures that are permitted to be constructed or remodeled; and

20 (5) Establishing restrictions on land clearing activities and
21 development practices that exacerbate flood problems by increasing the
22 flow or accumulation of flood waters, or the intensity of drainage, on
23 low-lying areas. Land clearing activities do not include forest
24 practices as defined in chapter 76.09 RCW.

25 A comprehensive flood control management plan shall be subject to
26 the minimum requirements for participation in the national flood
27 insurance program, requirements exceeding the minimum national flood
28 insurance program that have been adopted by the department of ecology
29 for a specific flood plain pursuant to RCW 86.16.031, and rules adopted
30 by the department of ecology pursuant to RCW 86.26.050 relating to
31 flood plain management activities. When a county plans under chapter
32 36.70A RCW, it may incorporate the portion of its comprehensive flood
33 control management plan relating to land use restrictions in its
34 comprehensive plan and development regulations adopted pursuant to
35 chapter 36.70A RCW.

36 **Sec. 2.** RCW 86.12.210 and 1991 c 322 s 4 are each amended to read
37 as follows:

1 A comprehensive flood control management plan that includes an area
2 within which a city or town, or a special district subject to chapter
3 85.38 RCW, is located shall be developed by the county, or by the
4 district when the district is developing the plan, with the full
5 participation of officials from the city, town, or special district,
6 including conservation districts, and appropriate state and federal
7 agencies. Where a comprehensive flood control management plan is being
8 prepared for a river basin that is part of the common boundary between
9 two counties, the county legislative authority of the county preparing
10 the plan or the governing body of the district may allow participation
11 by officials of the adjacently located county.

12 Following adoption by ~~((the))~~ each county, city, ~~((or))~~ town, or
13 special district organized under Title 85 RCW, a comprehensive flood
14 control management plan shall be binding on each jurisdiction and
15 special district that is located within an area included in the plan.
16 If within one hundred twenty days of the county's adoption, a city
17 ~~((or))~~, town, or special district does not adopt the comprehensive
18 flood control management plan, the city ~~((or))~~, county, town, or
19 special district shall request arbitration on the issue or issues in
20 dispute. If parties cannot agree to the selection of an arbitrator,
21 the arbitrator shall be selected according to the process described in
22 RCW 7.04.050. The cost of the arbitrator shall be shared equally by
23 the participating parties and the arbitrator's decision shall be
24 binding. Any land use regulations and restrictions on construction
25 activities contained in a comprehensive flood control management plan
26 applicable to a city or town shall be minimum standards that the city
27 or town may exceed. A city ~~((or))~~, town, or special district
28 undertaking flood or storm water control activities consistent with the
29 comprehensive flood control management plan shall retain authority over
30 such activities.

31 **Sec. 3.** RCW 43.155.020 and 2001 c 131 s 1 are each amended to read
32 as follows:

33 Unless the context clearly requires otherwise, the definitions in
34 this section shall apply throughout this chapter.

35 (1) "Board" means the public works board created in RCW 43.155.030.

36 (2) "Capital facility plan" means a capital facility plan required

1 by the growth management act under chapter 36.70A RCW or, for local
2 governments not fully planning under the growth management act, a plan
3 required by the public works board.

4 (3) "Department" means the department of community, trade, and
5 economic development.

6 (4) "Financing guarantees" means the pledge of money in the public
7 works assistance account, or money to be received by the public works
8 assistance account, to the repayment of all or a portion of the
9 principal of or interest on obligations issued by local governments to
10 finance public works projects.

11 (5) "Local governments" means cities, towns, counties, special
12 purpose districts, and any other municipal corporations or quasi-
13 municipal corporations in the state excluding school districts and port
14 districts.

15 (6) "Public works project" means a project of a local government
16 for the planning, acquisition, construction, repair, reconstruction,
17 replacement, rehabilitation, or improvement of streets and roads,
18 bridges, water systems, ~~((or))~~ storm and sanitary sewage systems, flood
19 hazard reduction systems, and solid waste facilities, including
20 recycling facilities. A planning project may include the compilation
21 of biological, hydrological, or other data on a county, drainage basin,
22 or region necessary to develop a base of information for a capital
23 facility plan.

24 (7) "Solid waste or recycling project" means remedial actions
25 necessary to bring abandoned or closed landfills into compliance with
26 regulatory requirements and the repair, restoration, and replacement of
27 existing solid waste transfer, recycling facilities, and landfill
28 projects limited to the opening of landfill cells that are in existing
29 and permitted landfills.

30 (8) "Technical assistance" means training and other services
31 provided to local governments to: (a) Help such local governments
32 plan, apply, and qualify for loans and financing guarantees from the
33 board, and (b) help local governments improve their ability to plan
34 for, finance, acquire, construct, repair, replace, rehabilitate, and
35 maintain public facilities.

36 **Sec. 4.** RCW 86.26.060 and 1984 c 212 s 5 are each amended to read
37 as follows:

1 Grants for flood control maintenance shall be so employed that as
2 far as possible, funds will be on hand to meet unusual, unforeseeable
3 and emergent flood conditions. Allocations by the department of
4 ecology, for emergency purposes, shall in each instance be in amounts
5 which together with funds provided by local authority, if any, under
6 reasonable exercise of its emergency powers, shall be adequate for the
7 preservation of life and property, and with due regard to similar needs
8 elsewhere in the state. For fiscal years 2005 through and including
9 2009, the department of ecology shall place a priority upon funding
10 flood control maintenance by special purpose districts that have
11 experienced significant increases in maintenance costs from increased
12 flood water runoff due to increasing urbanization and land use
13 development in the drainage basin in which the district's facilities
14 are located. This priority applies to those funds not set aside by the
15 department of ecology to meet unusual, unforeseeable, and emergent
16 flood conditions.

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