
SUBSTITUTE SENATE BILL 6132

State of Washington

52nd Legislature

1992 Regular Session

By Senate Committee on Environment & Natural Resources (originally sponsored by Senators Metcalf, Owen, Oke, M. Kreidler, Snyder and Conner; by request of Puget Sound Water Quality Authority)

Read first time 01/23/92.

1 AN ACT Relating to the reduction of nonpoint source pollution in
2 counties with shellfish growing tidelands; amending RCW 90.72.030,
3 90.72.040, 90.72.070, 70.146.060, 36.70A.020, and 36.70A.070; adding
4 new sections to chapter 90.72 RCW; adding a new section to chapter
5 90.50A RCW; adding a new section to chapter 88.36 RCW; repealing RCW
6 90.72.010 and 90.72.050; and providing an effective date.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 90.72 RCW
9 to read as follows:

10 The legislature finds that shellfish harvesting is important to our
11 economy and way of life. Washington state is an international leader
12 in the cultivation and production of shellfish. However, large
13 portions of the state's productive recreational and commercial
14 shellfish beds are closed to harvesting, and more are threatened,

1 because of water pollution. The legislature finds that the problem of
2 shellfish bed closures demands a public policy solution and that the
3 state, local governments, and individuals must each take strong and
4 swift action or this precious resource will be lost.

5 It is the goal of the legislature to prevent further closures of
6 recreational and commercial shellfish beds, to restore water quality in
7 saltwater tidelands to allow the reopening of at least one restricted
8 or closed shellfish bed each year, and to ensure Washington state's
9 commanding international position in shellfish production.

10 The legislature finds that failing on-site sewage systems and
11 animal waste are the two most significant causes of shellfish bed
12 closures over the past decade. Remedial actions at the local level are
13 required to effectively address these problems.

14 The legislature finds that existing entities, including
15 conservation districts and local health departments, should be used by
16 counties to address the water quality problems affecting the
17 recreational and commercial shellfish harvest.

18 The legislature finds that local action in each watershed where
19 shellfish are harvested is required to protect this vital resource.
20 The legislature hereby encourages all counties having saltwater
21 tidelands within their boundaries to establish watershed protection
22 districts and programs designed to prevent any further degradation and
23 contamination and to allow for restoration and reopening of closed
24 shellfish growing areas.

25 **Sec. 2.** RCW 90.72.030 and 1985 c 417 s 3 are each amended to read
26 as follows:

27 The legislative authority of each county having ~~((shellfish))~~
28 saltwater tidelands within its boundaries is authorized to establish a
29 ~~((shellfish))~~ watershed protection district to include areas in which

1 nonpoint pollution threatens water quality or the continuation of
2 shellfish farming or harvesting. The legislative authority shall
3 constitute the governing body of the district and shall adopt a
4 ~~((shellfish))~~ watershed protection program to be effective within the
5 district. The legislative authority may appoint a local advisory
6 council to advise the legislative authority in preparation and
7 implementation of watershed protection programs. This program ~~((may))~~
8 shall include any elements deemed appropriate to deal with the nonpoint
9 pollution ~~((threat))~~ threatening water quality, including, but not
10 limited to, requiring the elimination or decrease of contaminants in
11 storm water runoff, establishing monitoring ~~((programs))~~, inspection,
12 and repair elements to ~~((make sure that septic drainfield))~~ ensure that
13 on-site sewage systems are adequately maintained and working properly
14 ~~((and))~~, assuring that animal grazing and manure management practices
15 are ~~((appropriate))~~ consistent with best management practices, and
16 establishing educational and public involvement programs to inform
17 citizens on the causes of the threatening nonpoint pollution and what
18 they can do to decrease the amount of such pollution. An element may
19 be omitted where another program is effectively addressing those
20 sources of nonpoint water pollution. Within the limits of RCW
21 90.72.040 and 90.72.070, the county legislative authority shall have
22 full jurisdiction and authority to manage, regulate, and control its
23 programs and to fix, alter, regulate, and control the fees for services
24 provided and charges or rates as provided under those programs.
25 Programs established under this chapter, may, but are not required to,
26 be part of a system of sewerage as defined in RCW 36.94.010.

27 **Sec. 3.** RCW 90.72.040 and 1985 c 417 s 4 are each amended to read
28 as follows:

1 The county legislative authority may create a ((shellfish))
2 watershed protection district on its own motion or by submitting the
3 question to the voters of the proposed district and obtaining the
4 approval of a majority of those voting. The boundaries of the district
5 shall be determined by the legislative authority. The legislative
6 authority may create more than one district. A district may include
7 any area or areas within the county, whether incorporated or
8 unincorporated. Counties shall coordinate and cooperate with cities,
9 towns, and water-related special districts within their boundaries in
10 establishing watershed protection districts and carrying out watershed
11 protection programs. Where a portion of the proposed district lies
12 within an incorporated area, the county shall develop procedures for
13 the participation of the city or town in the determination of the
14 boundaries of the district and the administration of the district,
15 including funding of the district's programs. The legislative
16 authority of more than one county may by agreement provide for the
17 creation of a district including areas within each of those counties.
18 County legislative authorities are encouraged to coordinate their plans
19 and programs to protect shellfish growing areas, especially where
20 shellfish growing areas are located within the boundaries of more than
21 one county. The legislative authority or authorities creating a
22 district may abolish a ((shellfish)) watershed protection district on
23 its or their own motion or by submitting the question to the voters of
24 the district and obtaining the approval of a majority of those voting.

25 The county shall not operate a watershed protection district within
26 an area in which a storm water or surface water utility exists.

27 NEW SECTION. Sec. 4. A new section is added to chapter 90.72 RCW
28 to read as follows:

1 The county legislative authority shall create a watershed
2 protection district and establish a watershed protection program to
3 address causes of pollution within one hundred eighty days after the
4 department of health, because of water quality degradation due to
5 ongoing nonpoint sources of pollution, has closed or downgraded the
6 classification of a recreational or commercial shellfish growing area
7 within the boundaries of the county.

8 NEW SECTION. **Sec. 5.** A new section is added to chapter 90.72 RCW
9 to read as follows:

10 Within available funding and as specified in the watershed
11 protection program, counties creating watershed protection districts
12 shall contract with conservation districts to draft plans with
13 landowners to control pollution effects of animal waste.

14 **Sec. 6.** RCW 90.72.070 and 1985 c 417 s 7 are each amended to read
15 as follows:

16 The county legislative authority establishing a ~~((shellfish))~~
17 watershed protection district may finance the protection program
18 through (1) ~~((its))~~ county tax revenues, (2) inspection fees and
19 similar fees ~~((or))~~ for services provided, (3) charges or rates
20 specified in its protection program, or ~~((+3))~~ (4) federal, state, or
21 private grants. Confined animal feeding operations subject to the
22 national pollutant discharge elimination system and implementing
23 regulations shall not be subject to fees, rates, or charges by a
24 watershed protection district. Counties may collect charges or rates
25 in the manner determined by the county legislative authority.

26 NEW SECTION. **Sec. 7.** A new section is added to chapter 90.72 RCW
27 to read as follows:

1 Counties may issue general obligation bonds, revenue bonds, and
2 other evidences of indebtedness to assist in carrying out the programs
3 of watershed protection districts, and counties may issue revenue bonds
4 and other revenue obligations payable from fees, charges, or rates, and
5 other revenue of districts. Any such obligations shall be issued in
6 accordance with chapter 36.67 or 36.94 RCW.

7 NEW SECTION. **Sec. 8.** A new section is added to chapter 90.72 RCW
8 to read as follows:

9 (1) The watershed financial assistance program is hereby created in
10 the department of ecology. Grants and loans may be awarded only in a
11 manner consistent with this chapter. The program shall be administered
12 by the department of ecology in consultation with the department of
13 health, and administrative costs shall be consistent with the
14 limitations of RCW 70.146.030(2).

15 (2) Funds allocated to the watershed grants program shall be
16 distributed only to counties for the purpose of creating watershed
17 protection districts and implementing programs of such districts.

18 (3) In making grants and loans for watershed protection, the
19 department of ecology, in consultation with the department of health,
20 shall consider the following:

21 (a) The value and degree of threat to the recreational and
22 commercial shellfish resource in the watershed;

23 (b) The adequacy of the watershed protection program adopted by the
24 applicant to achieve the goal of protecting the shellfish resource; and

25 (c) The results of watershed protection efforts funded by any
26 previous state grant to the applicant.

27 (4) Grants distributed to watershed protection districts must be
28 matched by at least a twenty-five percent local contribution.

1 (5) The funds allocated by section 10 of this act shall be
2 available to watershed protection districts for the purpose of
3 establishing local government revolving loan programs to provide loans
4 to individuals to reduce nonpoint source water pollution, including on-
5 site septic system corrective action and the implementation of
6 agricultural best management practices. The loans shall be on such
7 terms and subject to such conditions as are required by chapter 90.50A
8 RCW. The department shall follow the procedures of subsection (3) of
9 this section in distributing loans.

10 (6) Counties that have formed watershed protection districts shall
11 receive high priority for state water quality financial assistance to
12 implement shellfish protection programs, including grants and loans
13 provided under chapters 43.99F, 70.146, and 90.50A RCW.

14 **Sec. 9.** RCW 70.146.060 and 1987 c 527 s 1 are each amended to read
15 as follows:

16 During the period from July 1, 1987, until June 30, 1995, the
17 following limitations shall apply to the department's total
18 distribution of funds appropriated from the water quality account:

19 (1) Not more than fifty percent for water pollution control
20 facilities which discharge directly into marine waters;

21 (2) Not more than twenty percent for water pollution control
22 activities that prevent or mitigate pollution of underground waters and
23 facilities that protect federally designated sole source aquifers with
24 at least two-thirds for the Spokane-Rathdrum Prairie Aquifer;

25 (3) Not more than ten percent for water pollution control
26 activities that protect freshwater lakes and rivers including but not
27 limited to Lake Chelan and the Yakima and Columbia rivers;

1 (4) Not more than ten percent for activities which control nonpoint
2 source water pollution, of which at least twenty percent shall be
3 available for distribution pursuant to section 8 of this act;

4 (5) Ten percent and such sums as may be remaining from the
5 categories specified in subsections (1) through (4) of this section for
6 water pollution control activities or facilities as determined by the
7 department; and

8 (6) Two and one-half percent of the total amounts of moneys under
9 subsections (1) through (5) of this section from February 21, 1986,
10 until December 31, 1995, shall be appropriated biennially to the state
11 conservation commission for the purposes of this chapter. Not less
12 than ten percent of the moneys received by the state conservation
13 commission under the provisions of this section shall be expended on
14 research activities.

15 With the exception of subsection (4) of this section, the
16 distribution under this section shall not be required to be met in any
17 single fiscal year.

18 Funds provided for facilities and activities under this chapter may
19 be used for payments to a service provider under a service agreement
20 pursuant to RCW 70.150.060. If funds are to be used for such payments,
21 the department may make periodic disbursements to a public body or may
22 make a single lump sum disbursement. Disbursements of funds with
23 respect to a facility owned or operated by a service provider shall be
24 equivalent in value to disbursements that would otherwise be made if
25 that facility were owned or operated by a public body. Payments under
26 this chapter for waste disposal and management facilities made to
27 public bodies entering into service agreements pursuant to RCW
28 70.150.060 shall not exceed amounts paid to public bodies not entering
29 into service agreements.

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

3 For the period July 1, 1992, through June 30, 1995, five percent of
4 the funds available annually shall be allocated for loans to local
5 governments pursuant to section 8(5) of this act.

6 NEW SECTION. **Sec. 11.** A new section is added to chapter 88.36 RCW
7 to read as follows:

8 The commission shall seek to provide the most cost efficient and
9 accessible facilities possible for reducing the amount of boat waste
10 entering the state's waters. The commission shall consider providing
11 funding support for portable pumpout facilities in this effort.

12 **Sec. 12.** RCW 36.70A.020 and 1990 1st ex.s. c 17 s 2 are each
13 amended to read as follows:

14 The following goals are adopted to guide the development and
15 adoption of comprehensive plans and development regulations of those
16 counties and cities that are required or choose to plan under RCW
17 36.70A.040. The following goals are not listed in order of priority
18 and shall be used exclusively for the purpose of guiding the
19 development of comprehensive plans and development regulations:

20 (1) Urban growth. Encourage development in urban areas where
21 adequate public facilities and services exist or can be provided in an
22 efficient manner.

23 (2) Reduce sprawl. Reduce the inappropriate conversion of
24 undeveloped land into sprawling, low-density development.

25 (3) Transportation. Encourage efficient multimodal transportation
26 systems that are based on regional priorities and coordinated with
27 county and city comprehensive plans.

1 (4) Housing. Encourage the availability of affordable housing to
2 all economic segments of the population of this state, promote a
3 variety of residential densities and housing types, and encourage
4 preservation of existing housing stock.

5 (5) Economic development. Encourage economic development
6 throughout the state that is consistent with adopted comprehensive
7 plans, promote economic opportunity for all citizens of this state,
8 especially for unemployed and for disadvantaged persons, and encourage
9 growth in areas experiencing insufficient economic growth, all within
10 the capacities of the state's natural resources, public services, and
11 public facilities.

12 (6) Property rights. Private property shall not be taken for
13 public use without just compensation having been made. The property
14 rights of landowners shall be protected from arbitrary and
15 discriminatory actions.

16 (7) Permits. Applications for both state and local government
17 permits should be processed in a timely and fair manner to ensure
18 predictability.

19 (8) Natural resource industries. Maintain and enhance natural
20 resource-based industries, including productive timber, agricultural,
21 shellfish, and fisheries industries. Encourage the conservation of
22 productive forest lands and productive agricultural lands and shellfish
23 tidelands, and discourage incompatible uses.

24 (9) Open space and recreation. Encourage the retention of open
25 space and development of recreational opportunities, conserve fish and
26 wildlife habitat, increase access to natural resource lands and water,
27 and develop parks.

28 (10) Environment. Protect the environment and enhance the state's
29 high quality of life, including air and water quality, and the
30 availability of water.

1 (11) Citizen participation and coordination. Encourage the
2 involvement of citizens in the planning process and ensure coordination
3 between communities and jurisdictions to reconcile conflicts.

4 (12) Public facilities and services. Ensure that those public
5 facilities and services necessary to support development shall be
6 adequate to serve the development at the time the development is
7 available for occupancy and use without decreasing current service
8 levels below locally established minimum standards.

9 (13) Historic preservation. Identify and encourage the
10 preservation of lands, sites, and structures, that have historical or
11 archaeological significance.

12 **Sec. 13.** RCW 36.70A.070 and 1990 1st ex.s. c 17 s 7 are each
13 amended to read as follows:

14 The comprehensive plan of a county or city that is required or
15 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,
16 and descriptive text covering objectives, principles, and standards
17 used to develop the comprehensive plan. The plan shall be an
18 internally consistent document and all elements shall be consistent
19 with the future land use map. A comprehensive plan shall be adopted
20 and amended with public participation as provided in RCW 36.70A.140.

21 Each comprehensive plan shall include a plan, scheme, or design for
22 each of the following:

23 (1) A land use element designating the proposed general
24 distribution and general location and extent of the uses of land, where
25 appropriate, for agriculture, timber production, housing, commerce,
26 industry, recreation, open spaces, public utilities, public facilities,
27 and other land uses. The land use element shall include population
28 densities, building intensities, and estimates of future population
29 growth. The land use element shall provide for protection of the

1 quality and quantity of ground water used for public water supplies and
2 quality of marine water in shellfish growing areas. Where applicable,
3 the land use element shall review drainage, flooding, and storm water
4 run-off in the area and nearby jurisdictions and provide guidance for
5 corrective actions to mitigate or cleanse those discharges that pollute
6 waters of the state, including Puget Sound or waters entering Puget
7 Sound.

8 (2) A housing element recognizing the vitality and character of
9 established residential neighborhoods that: (a) Includes an inventory
10 and analysis of existing and projected housing needs; (b) includes a
11 statement of goals, policies, and objectives for the preservation,
12 improvement, and development of housing; (c) identifies sufficient land
13 for housing, including, but not limited to, government-assisted
14 housing, housing for low-income families, manufactured housing,
15 multifamily housing, and group homes and foster care facilities; and
16 (d) makes adequate provisions for existing and projected needs of all
17 economic segments of the community.

18 (3) A capital facilities plan element consisting of: (a) An
19 inventory of existing capital facilities owned by public entities,
20 showing the locations and capacities of the capital facilities; (b) a
21 forecast of the future needs for such capital facilities; (c) the
22 proposed locations and capacities of expanded or new capital
23 facilities; (d) at least a six-year plan that will finance such capital
24 facilities within projected funding capacities and clearly identifies
25 sources of public money for such purposes; and (e) a requirement to
26 reassess the land use element if probable funding falls short of
27 meeting existing needs and to ensure that the land use element, capital
28 facilities plan element, and financing plan within the capital
29 facilities plan element are coordinated and consistent.

1 (4) A utilities element consisting of the general location,
2 proposed location, and capacity of all existing and proposed utilities,
3 including, but not limited to, electrical lines, telecommunication
4 lines, and natural gas lines.

5 (5) Counties shall include a rural element including lands that are
6 not designated for urban growth, agriculture, forest, or mineral
7 resources. The rural element shall permit land uses that are
8 compatible with the rural character of such lands and provide for a
9 variety of rural densities.

10 (6) A transportation element that implements, and is consistent
11 with, the land use element. The transportation element shall include
12 the following subelements:

13 (a) Land use assumptions used in estimating travel;

14 (b) Facilities and services needs, including:

15 (i) An inventory of air, water, and land transportation facilities
16 and services, including transit alignments, to define existing capital
17 facilities and travel levels as a basis for future planning;

18 (ii) Level of service standards for all arterials and transit
19 routes to serve as a gauge to judge performance of the system. These
20 standards should be regionally coordinated;

21 (iii) Specific actions and requirements for bringing into
22 compliance any facilities or services that are below an established
23 level of service standard;

24 (iv) Forecasts of traffic for at least ten years based on the
25 adopted land use plan to provide information on the location, timing,
26 and capacity needs of future growth;

27 (v) Identification of system expansion needs and transportation
28 system management needs to meet current and future demands;

29 (c) Finance, including:

1 (i) An analysis of funding capability to judge needs against
2 probable funding resources;

3 (ii) A multiyear financing plan based on the needs identified in
4 the comprehensive plan, the appropriate parts of which shall serve as
5 the basis for the six-year street, road, or transit program required by
6 RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW
7 35.58.2795 for public transportation systems;

8 (iii) If probable funding falls short of meeting identified needs,
9 a discussion of how additional funding will be raised, or how land use
10 assumptions will be reassessed to ensure that level of service
11 standards will be met;

12 (d) Intergovernmental coordination efforts, including an assessment
13 of the impacts of the transportation plan and land use assumptions on
14 the transportation systems of adjacent jurisdictions;

15 (e) Demand-management strategies.

16 After adoption of the comprehensive plan by jurisdictions required
17 to plan or who choose to plan under RCW 36.70A.040, local jurisdictions
18 must adopt and enforce ordinances which prohibit development approval
19 if the development causes the level of service on a transportation
20 facility to decline below the standards adopted in the transportation
21 element of the comprehensive plan, unless transportation improvements
22 or strategies to accommodate the impacts of development are made
23 concurrent with the development. These strategies may include
24 increased public transportation service, ride sharing programs, demand
25 management, and other transportation systems management strategies.
26 For the purposes of this subsection (6) "concurrent with the
27 development" shall mean that improvements or strategies are in place at
28 the time of development, or that a financial commitment is in place to
29 complete the improvements or strategies within six years.

1 The transportation element described in this subsection, and the
2 six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for
3 counties, and RCW 35.58.2795 for public transportation systems, must be
4 consistent.

5 NEW SECTION. **Sec. 14.** The following acts or parts of acts are
6 each repealed:

7 (1) RCW 90.72.010 and 1985 c 417 s 1; and

8 (2) RCW 90.72.050 and 1985 c 417 s 5.

9 NEW SECTION. **Sec. 15.** If any provision of this act or its
10 application to any person or circumstance is held invalid, the
11 remainder of the act or the application of the provision to other
12 persons or circumstances is not affected.

13 NEW SECTION. **Sec. 16.** Sections 12 and 13 of this act shall
14 take effect July 1, 1994.