

SENATE BILL REPORT

SB 5215

AS REPORTED BY COMMITTEE ON ECOLOGY & PARKS, MARCH 3, 1993

**Brief Description:** Strengthening the regulation of Puget Sound water quality.

**SPONSORS:** Senators Talmadge, Fraser, Owen and Skratek

**SENATE COMMITTEE ON ECOLOGY & PARKS**

**Majority Report:** That Substitute Senate Bill No. 5215 be substituted therefor, and the substitute bill do pass.

Signed by Senators Fraser, Chairman; Barr, Moore, Sutherland, and Talmadge.

**Staff:** Gary Wilburn (785-7453)

**Hearing Dates:** January 29, 1993; March 3, 1993

**BACKGROUND:**

In 1985, the Legislature created the Puget Sound Water Quality Authority (Authority) as a single entity to develop a comprehensive plan for water quality protection in Puget Sound. A single entity was needed because the large number of governmental organizations that affect the water quality in Puget Sound have diverse interests and limited jurisdictions which cannot adequately address factors which degrade the waters of Puget Sound.

The Board of the Authority is appointed by the Governor and has the responsibility to adopt and oversee implementation of a comprehensive Puget Sound Water Quality Management Plan (Management Plan) to protect and clean up Puget Sound. The Management Plan is to be implemented by existing state and local government agencies.

The 1991 Plan programs include fish and wildlife habitat protection; spill prevention and response; environmental monitoring; research; education and public involvement; wetlands protection; stormwater; combined sewer overflows; and many other related programs.

It is suggested that enhanced statutory direction for the Authority, local programs for problem contaminants, and strengthened enforcement activity are needed for further protection of the quality of Puget Sound waters.

**SUMMARY:**

The Puget Sound Water Quality Authority. The chair of the Authority is chosen by Authority members and rotated annually among the members. Votes are cast by Authority members rather

than alternates or designees. The Authority's executive director carries out policy directions and reports to the Authority.

The sunset of the Authority is extended from 1995 to 1997. In 1996, the Legislative Budget Committee is to prepare a report on future implementation of the Management Plan. Termination of the Authority is not to affect the plan requirements.

The plan, and its authorizing statutes, supplements the authority of all governments and agencies charged with implementing the plan. The Authority may allocate implementation responsibilities to other agencies and different levels of government.

The plan shall address all the waters and sediments in Puget Sound. Additional plan elements include: (1) a schedule for achieving plan goals; (2) an education and public involvement plan; (3) a program for reducing and eliminating toxic contaminants, including sediment classification rules and effluent limits; (4) an enhanced stormwater and combined sewer overflow (CSO) program; (5) a quality assurance program for laboratory tests; (6) A funding and budget plan; and others.

The Governor's budget document shall identify agency estimates to fully implement responsibilities under the Plan. A local government that rejects the implementation of a plan element for lack of funding shall document its review and provide it to the Authority.

Watershed Protection Districts. Counties are authorized to create watershed protection districts to fund water resources protection. Procedures for creation of the district are specified. Where the district would include territory within an incorporated area, the county shall coordinate with the city or town in establishing fees or charges and in implementing watershed protection programs. A district's program may be financed through any combination of county tax revenues, inspection and similar fees for services, charges or rates, or grants. Districts are encouraged to contract with conservation districts, to make use of conservation corps surface water action teams, and to assist county health departments with septic system programs. District revenues may be used to fund any activity, program, or project related to water resource protection in the district.

Local Governments and Stormwater. Local government comprehensive land use plans, required by 1990 growth management legislation, shall be consistent with applicable provisions of the Puget Sound plan. The land use plans must include stormwater management plans that have been adopted under the Puget Sound plan. Local governments are to adopt ordinances prohibiting development which would cause the stormwater service to fall below the level of service standards incorporated in the comprehensive plan, unless improvements or strategies to mitigate the impacts are made concurrent with the development. Stormwater management

facilities are added to the list of public facilities for which local governments may assess "development impact" fees.

Grants or loans from the water quality account are limited to cities and counties that have adopted a storm water management program as part of its comprehensive plan pursuant to the Growth Management Act. Storm water management is to be considered in proposed subdivision approvals.

Beginning July 1, 1995, transportation projects performed or funded by the state must incorporate state-of-the-art stormwater controls.

Pesticides. The Department of Agriculture shall adopt rules for the use and application of pesticides that have adverse impacts on marine waters. The department shall adopt rules to deny new, or cancel existing registrations of pesticides which pose a substantial risk to public health, water quality, sediments or biota.

Septic Systems in Sensitive Areas. Local health agencies, pursuant to State Board of Health rules, shall designate sensitive areas within the Puget Sound region that may be subject to on-site sewage disposal or other contaminants. Before real property in these sensitive areas is sold, the seller must provide a report to the purchaser stating the type of sewerage service for the property.

The Centennial Clean Water Fund. The Centennial Clean Water Fund is clarified to include combined sewer overflow (CSO) reduction within the marine discharge funding category. CSO reductions shall have priority funding until 1997. Effective in 1994, local governments may not obtain fund monies without stormwater management programs or CSO reduction plans.

Enforcement. The Department of Ecology is to establish a schedule of frequency for inspecting facilities required to obtain discharge permits. Discharge permits must include toxic limits, sediment quality limits, and monitoring requirements.

The department shall initiate at least 25 enforcement actions against unpermitted dischargers in the 1993-95 biennium. At least 15 shall be against Puget Sound dischargers.

Citizen suits for water quality enforcement are authorized.

Penalties. Judicial and administrative penalties are to be deposited into a new water quality protection account which may be expended for grants for water pollution control purposes. Those penalties resulting from violations in Puget Sound or its watersheds are to be deposited into a new Puget Sound restoration account to be expended by the Puget Sound Water Quality Authority for local public involvement and education programs regarding Puget Sound water quality. Violators of water pollution control statutes may be assessed civil penalties up to \$10,000 per day for each violation. Any person who knowingly pollutes the state's waters by falsifying

records, discharging without a valid permit, or other violations may be subject to criminal penalties.

**EFFECT OF PROPOSED SUBSTITUTE:**

Puget Sound Water Quality Authority. The following provisions are deleted from the original bill: (1) the Authority chair is chosen by the Authority members; (2) additional management plan elements and language to clarify that plan is mandatory; (3) authority of all agencies are supplemented to enable implementing Puget Sound plan provisions; (4) the Authority may allocate plan responsibilities to other agencies; (5) local government reports on failure to implement plan element due to lack of funding; and (6) the Authority sunset extension.

Watershed Protection Districts. Counties must seek approval of cities and towns that have territory within the proposed district, and develop procedures for cities and towns to participate in setting boundaries, funding, and implementing district programs. Where a district is formed to address lake pollution from nonpoint sources, the county must enact an ordinance requiring best management practices to control such contaminant sources within six years. Use of district funding for public involvement and education projects is authorized, and funding may cover planning costs.

Storm Water Management. The following provisions are deleted from the original bill: (1) storm water facilities are included under "impact fees" provisions of the Growth Management Act (GMA); (2) new development must meet GMA "concurrency" requirements for storm water facilities; (3) "service level standards" for storm water are to be included in local comprehensive plans; (4) restrictions on eligibility for grants from Centennial Clean Water Fund to local governments not adopting required storm water programs. Local governments are authorized, rather than required, to incorporate storm water management programs into local GMA comprehensive plans.

Septic Systems. Soil conditions are included in criteria to be considered in local designation of sensitive areas.

Pesticides. All provisions relating to pesticides are deleted.

Water Quality Enforcement. The following provisions are deleted from the original bill: (1) judicial civil penalty authority; (2) increased criminal penalties for some water quality violations; (3) citizen suits authority; (4) increased enforcement against unpermitted dischargers and inspections of permitted dischargers. Interest in the new accounts for water quality penalties is retained in the accounts.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** requested March 3, 1993

**TESTIMONY FOR:**

Will provide counties an important funding mechanism to address water quality needs comprehensively.

**TESTIMONY AGAINST:**

The Authority structure established in 1990 is working effectively and should not be modified. Local governments are addressing many storm water needs already, and additional requirements are not warranted. New local authority for funding water quality programs needs further review to address concerns of multiple local jurisdictions. Septic system disclosure is adequately addressed through standard realtor agreements with sellers of property.

**TESTIFIED:** Ed Thorpe, Coalition for Clean Water; Kathleen Collins, Association of Washington Cities; Dick Ducharme, Building Industry Association of Washington (con); Bill Fritz, Washington Food Processors Council; Glen Hudson, Washington Association of Realtors; Kris Backes, Association of Washington Business (con); Mike Yeager, WFPA (con); Naki Stevens, People for Puget Sound (pro); Hugh Spitzer, PSWQA (pro); Ken Donohue, BIAW (con); Glenn Smerdon, Department of Agriculture