

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 2875

54th Legislature
1996 Regular Session

Passed by the House March 7, 1996
Yeas 97 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate March 7, 1996
Yeas 42 Nays 7

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 2875** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 2875

AS AMENDED BY THE SENATE

Passed Legislature - 1996 Regular Session

State of Washington 54th Legislature 1996 Regular Session

By House Committee on Agriculture & Ecology (originally sponsored by Representative Chandler)

Read first time 02/06/96.

1 AN ACT Relating to water quality; adding a new chapter to Title 90
2 RCW; creating a new section; recodifying RCW 90.70.027 and 90.70.902;
3 repealing RCW 90.70.065, 90.70.075, 90.70.090, and 90.70.100; making an
4 appropriation; providing an effective date; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** FINDINGS. (1) The legislature finds that:

7 (a) Puget Sound and related inland marine waterways of Washington
8 state represent a unique and unparalleled resource. A rich and varied
9 range of marine organisms, comprising an interdependent, sensitive
10 communal ecosystem reside in these sheltered waters. Residents of this
11 region enjoy a way of life centered around the waters of Puget Sound,
12 featuring accessible recreational opportunities, world-class port
13 facilities and water transportation systems, harvest of marine food
14 resources, shoreline-oriented life styles, water-dependent industries,
15 tourism, irreplaceable aesthetics, and other activities, all of which
16 to some degree depend upon a clean and healthy marine resource;

17 (b) The Puget Sound water quality authority has done an excellent
18 job in developing a comprehensive plan to identify actions to restore
19 and protect the biological health and diversity of Puget Sound;

1 (c) The large number of governmental entities that now have
2 regulatory programs affecting the water quality of Puget Sound have
3 diverse interests and limited jurisdictions that cannot adequately
4 address the cumulative, wide-ranging impacts that contribute to the
5 degradation of Puget Sound; and

6 (d) Coordination of the regulatory programs, at the state and local
7 level, is best accomplished through the development of interagency
8 mechanisms that allow these entities to transcend their diverse
9 interests and limited jurisdictions.

10 (2) It is therefore the policy of the state of Washington to
11 coordinate the activities of state and local agencies by establishing
12 a biennial work plan that clearly delineates state and local actions
13 necessary to protect and restore the biological health and diversity of
14 Puget Sound. It is further the policy of the state to implement the
15 Puget Sound water quality management plan to the maximum extent
16 possible.

17 NEW SECTION. **Sec. 2.** DEFINITIONS. Unless the context clearly
18 requires otherwise, the definitions in this section apply throughout
19 this chapter.

20 (1) "Action team" means the Puget Sound water quality action team.

21 (2) "Chair" means the chair of the action team.

22 (3) "Council" means the Puget Sound council created in section 4 of
23 this act.

24 (4) "Puget Sound management plan" means the 1994 Puget Sound water
25 quality management plan as it exists June 30, 1996, and as subsequently
26 amended by the action team.

27 (5) "Support staff" means the staff to the action team.

28 (6) "Work plan" means the work plan and budget developed by the
29 action team.

30 NEW SECTION. **Sec. 3.** PUGET SOUND ACTION TEAM. (1) The Puget
31 Sound action team is created. The action team shall consist of: The
32 directors of the departments of ecology; agriculture; natural
33 resources; fish and wildlife; and community, trade, and economic
34 development; the secretaries of the departments of health and
35 transportation; the director of the parks and recreation commission;
36 the director of the interagency committee for outdoor recreation; the
37 administrative officer of the conservation commission designated in RCW

1 89.08.050; one person representing cities, appointed by the governor;
2 one person representing counties, appointed by the governor; and the
3 chair of the action team. The members representing cities and counties
4 shall each be reimbursed for travel expenses as provided in RCW
5 43.03.050 and 43.03.060.

6 (2) The action team shall:

7 (a) Prepare a Puget Sound work plan and budget for inclusion in the
8 governor's biennial budget;

9 (b) Coordinate monitoring and research programs as provided in
10 section 7 of this act;

11 (c) Work under the direction of the action team chair as provided
12 in section 5 of this act;

13 (d) Coordinate permitting requirements as necessary to expedite
14 permit issuance for any local watershed plan developed pursuant to
15 rules adopted under this chapter;

16 (e) Identify and resolve any policy or rule conflicts that may
17 exist between one or more agencies represented on the action team;

18 (f) Periodically amend the Puget Sound management plan;

19 (g) Enter into, amend, and terminate contracts with individuals,
20 corporations, or research institutions for the purposes of this
21 chapter;

22 (h) Receive such gifts, grants, and endowments, in trust or
23 otherwise, for the use and benefit of the purposes of the action team.
24 The action team may expend the same or any income therefrom according
25 to the terms of the gifts, grants, or endowments;

26 (i) Promote extensive public participation, and otherwise seek to
27 broadly disseminate information concerning Puget Sound;

28 (j) Receive and expend funding from other public agencies;

29 (k) To reduce costs and improve efficiency, review by December 1,
30 1996, all requirements for reports and documentation from state
31 agencies and local governments specified in the plan for the purpose of
32 eliminating and consolidating reporting requirements; and

33 (l) Beginning in December 1998, and every two years thereafter,
34 submit a report to the appropriate policy and fiscal committees of the
35 legislature that describes and evaluates the successes and shortcomings
36 of the current work plan relative to the priority problems identified
37 for each geographic area of Puget Sound.

1 (3) By July 1, 1996, the action team shall begin developing its
2 initial work plan, which shall include the coordination of necessary
3 support staff.

4 (4) The action team shall incorporate, to the maximum extent
5 possible, the recommendations of the council regarding amendments to
6 the Puget Sound plan and the work plan.

7 (5) All proceedings of the action team are subject to the open
8 public meetings act under chapter 42.30 RCW.

9 NEW SECTION. **Sec. 4.** PUGET SOUND COUNCIL. (1) There is
10 established the Puget Sound council composed of nine members. Seven
11 members shall be appointed by the governor. In making these
12 appointments, the governor shall include representation from business,
13 the environmental community, agriculture, the shellfish industry,
14 counties, cities, and the tribes. One member shall be a member of the
15 senate selected by the president of the senate and one member shall be
16 a member of the house of representatives selected by the speaker of the
17 house of representatives. The legislative members shall be nonvoting
18 members of the council. Appointments to the council shall reflect
19 geographical balance and the diversity of population within the Puget
20 Sound basin. Members shall serve four-year terms. Of the initial
21 members appointed to the council, two shall serve for two years, two
22 shall serve for three years, and two shall serve for four years.
23 Thereafter members shall be appointed to four-year terms. Vacancies
24 shall be filled by appointment in the same manner as the original
25 appointment for the remainder of the unexpired term of the position
26 being vacated. Nonlegislative members shall be reimbursed for travel
27 expenses as provided in RCW 43.03.050 and 43.03.060. Legislative
28 members shall be reimbursed as provided in RCW 44.04.120.

29 (2) The council shall:

30 (a) Recommend to the action team projects and activities for
31 inclusion in the biennial work plan;

32 (b) Recommend to the action team coordination of work plan
33 activities with other relevant activities, including but not limited
34 to, agencies' activities other than those funded through the plan,
35 local plan initiatives, and governmental and nongovernmental watershed
36 restoration and protection activities; and

37 (c) Recommend to the action team proposed amendments to the Puget
38 Sound management plan.

1 (3) The chair of the action team shall convene the council at least
2 four times per year and shall jointly convene the council and the
3 action team at least two times per year.

4 NEW SECTION. **Sec. 5.** GOVERNOR'S OFFICE. (1) By June 1, 1996, the
5 governor shall appoint a person in the governor's office to chair the
6 action team. The chair shall serve at the pleasure of the governor.

7 (2) The chair shall be responsible for:

8 (a) Organizing the development of the council recommendations;

9 (b) Organizing the development of the work plan required under
10 section 6 of this act;

11 (c) Presenting work plan and budget recommendations to the governor
12 and the legislature;

13 (d) Overseeing the implementation of the elements of the work plan
14 that receive funding through appropriations by the legislature; and

15 (e) Serving as chair of the council.

16 (3) The chair of the action team shall be a full-time employee
17 responsible for the administration of all functions of the action team
18 and the council, including hiring and terminating support staff, budget
19 preparation, contracting, coordinating with the governor, the
20 legislature, and other state and local entities, and the delegation of
21 responsibilities as deemed appropriate. The salary of the chair shall
22 be fixed by the governor, subject to RCW 43.03.040.

23 NEW SECTION. **Sec. 6.** WORK PLANS. (1)(a) Each biennium, the
24 action team shall prepare a Puget Sound work plan and budget for
25 inclusion in the governor's biennial budget. The work plan shall
26 prescribe the necessary federal, state, and local actions to maintain
27 and enhance Puget Sound water quality, including but not limited to,
28 enhancement of recreational opportunities, and restoration of a
29 balanced population of indigenous shellfish, fish, and wildlife.

30 (b) In developing a work plan, the action team shall meet the
31 following objectives:

32 (i) Use the plan elements of the Puget Sound management plan to
33 prioritize local and state actions necessary to restore and protect the
34 biological health and diversity of Puget Sound;

35 (ii) Consider the problems and priorities identified in local
36 plans; and

1 (iii) Coordinate the work plan activities with other relevant
2 activities, including but not limited to, agencies' activities that
3 have not been funded through the plan, local plans, and governmental
4 and nongovernmental watershed restoration activities.

5 (2) In addition to the requirements identified under section
6 3(2)(a) of this act, the work plan and budget shall:

7 (a) Identify and prioritize the local and state actions necessary
8 to address the water quality problems in the following locations:

9 (i) Area 1: Island and San Juan counties;

10 (ii) Area 2: Skagit and Whatcom counties;

11 (iii) Area 3: Clallam and Jefferson counties;

12 (iv) Area 4: Snohomish, King, and Pierce counties; and

13 (v) Area 5: Kitsap, Mason, and Thurston counties;

14 (b) Provide sufficient funding to characterize local watersheds,
15 provide technical assistance, and implement state responsibilities
16 identified in the work plan. The number and qualifications of staff
17 assigned to each region shall be determined by the types of problems
18 identified pursuant to (a) of this subsection;

19 (c) Provide sufficient funding to implement and coordinate the
20 Puget Sound ambient monitoring plan pursuant to section 7 of this act;

21 (d) Provide funds to assist local jurisdictions to implement
22 elements of the work plan assigned to local governments and to develop
23 and implement local plans;

24 (e) Provide sufficient funding to provide support staff for the
25 action team; and

26 (f) Describe any proposed amendments to the Puget Sound plan.

27 (3) The work plan shall be submitted to the appropriate policy and
28 fiscal committees of the legislature by December 20th of each even-
29 numbered year.

30 (4) The work plan shall be implemented consistent with the
31 legislative provisos of the biennial appropriation acts.

32 NEW SECTION. **Sec. 7.** PUGET SOUND RESEARCH AND MONITORING. In
33 addition to other powers and duties specified in this chapter, the
34 action team shall ensure implementation and coordination of the Puget
35 Sound ambient monitoring program established in the Puget Sound
36 management plan. The program shall include, at a minimum:

1 (1) A research program, including but not limited to methods to
2 provide current research information to managers and scientists, and to
3 establish priorities based on the needs of the action team;

4 (2) A monitoring program, including baselines, protocols,
5 guidelines, and quantifiable performance measures. In consultation
6 with state agencies, local and tribal governments, and other public and
7 private interests, the action team shall develop and track quantifiable
8 performance measures that can be used by the governor and the
9 legislature to assess the effectiveness over time of programs and
10 actions initiated under the plan to improve and protect Puget Sound
11 water quality and biological resources. The performance measures shall
12 be developed by June 30, 1997. The performance measures shall include,
13 but not be limited to a methodology to track the progress of: Fish and
14 wildlife habitat; sites with sediment contamination; wetlands;
15 shellfish beds; and other key indicators of Puget Sound health. State
16 agencies shall assist the action team in the development and tracking
17 of these performance measures. The performance measures may be limited
18 to a selected geographic area.

19 NEW SECTION. **Sec. 8.** WORK PLAN IMPLEMENTATION. (1) Local
20 governments are required to implement local elements of the work plan
21 subject to the availability of appropriated funds or other funding
22 sources.

23 (2) The council shall review the progress of work plan
24 implementation. Where prescribed actions have not been accomplished in
25 accordance with the work plan, the responsible agency shall submit to
26 the council written explanations for the shortfalls, together with
27 proposed remedies.

28 NEW SECTION. **Sec. 9.** PUBLIC PARTICIPATION. The chair of the
29 action team shall hold public hearings to solicit public comment on the
30 work plan.

31 NEW SECTION. **Sec. 10.** RULE MAKING. By January 1, 1997, the
32 action team shall adopt chapter 400-12 WAC with revisions that:

33 (1) Direct counties to develop a prioritized list of watershed
34 improvement projects; and

35 (2) Identify all funding sources that can be used to implement
36 local plans.

1 NEW SECTION. **Sec. 11.** (1) The powers, duties, and functions of
2 the Puget Sound water quality authority pertaining to the cleanup and
3 protection of Puget Sound are transferred to the Puget Sound action
4 team. All references to the executive director or the Puget Sound
5 water quality authority in the Revised Code of Washington shall be
6 construed to mean the chair of the action team or the action team when
7 referring to the functions transferred in this section.

8 (2)(a) All reports, documents, surveys, books, records, files,
9 papers, or written material in the possession of the authority
10 pertaining to the powers, functions, and duties transferred shall be
11 delivered to the custody of the action team. All cabinets, furniture,
12 office equipment, motor vehicles, and other tangible property employed
13 by the authority in carrying out the powers, functions, and duties
14 transferred shall be made available to the action team. All funds,
15 credits, or other assets held in connection with the powers, functions,
16 and duties transferred shall be assigned to the action team.

17 (b) Any appropriations made to the authority for carrying out the
18 powers, functions, and duties transferred shall, on the effective date
19 of this section, be transferred and credited to the action team.

20 (c) Whenever any question arises as to the transfer of any
21 personnel, funds, books, documents, records, papers, files, equipment,
22 or other tangible property used or held in the exercise of the powers
23 and the performance of the duties and functions transferred, the
24 director of financial management shall make a determination as to the
25 proper allocation and certify the same to the state agencies concerned.

26 (3) All rules and all pending business before the authority
27 pertaining to the powers, functions, and duties transferred shall be
28 continued and acted upon by the action team. All existing contracts
29 and obligations shall remain in full force and shall be performed by
30 the action team.

31 (4) The transfer of the powers, duties, functions, and personnel of
32 the authority shall not affect the validity of any act performed before
33 the effective date of this section.

34 (5) If apportionments of budgeted funds are required because of the
35 transfers directed by this section, the director of financial
36 management shall certify the apportionments to the agencies affected,
37 the state auditor, and the state treasurer. Each of these shall make
38 the appropriate transfer and adjustments in funds and appropriation
39 accounts and equipment records in accordance with the certification.

1 NEW SECTION. **Sec. 12.** The following acts or parts of acts are
2 each repealed:

3 (1) RCW 90.70.065 and 1995 c 269 s 3501, 1994 c 264 s 98, & 1990 c
4 115 s 9;

5 (2) RCW 90.70.075 and 1990 c 115 s 10;

6 (3) RCW 90.70.090 and 1990 c 115 s 8; and

7 (4) RCW 90.70.100 and 1991 c 200 s 502.

8 NEW SECTION. **Sec. 13.** RCW 90.70.027 and 90.70.902 are each
9 recodified as new sections in the new chapter created in section 16 of
10 this act.

11 NEW SECTION. **Sec. 14.** CAPTIONS NOT LAW. Captions used in this
12 chapter do not constitute any part of the law.

13 NEW SECTION. **Sec. 15.** This act may be known and cited as the
14 Puget Sound water quality protection act.

15 NEW SECTION. **Sec. 16.** Sections 1 through 10, 14, and 15 of this
16 act shall constitute a new chapter in Title 90 RCW.

17 NEW SECTION. **Sec. 17.** The sum of one million dollars, or as much
18 thereof as may be necessary is appropriated for the biennium ending
19 June 30, 1997, from the water quality account to the department of
20 ecology. The amount appropriated in this section is provided solely
21 for grants to local governments for on-site sewage system projects or
22 programs identified in local watershed action plans. In issuing
23 grants, the department shall give priority to areas that have formed
24 shellfish protection districts under chapter 90.72 RCW, to areas that
25 have created operation and maintenance programs, and to areas where
26 failing on-site systems have contaminated or threaten to contaminate
27 highly productive shellfish growing areas or recreational harvest
28 areas. The department of ecology shall develop criteria for assistance
29 that establishes higher priority for areas with substantial numbers of
30 low-income households for which on-site system upgrades are proposed.

31 NEW SECTION. **Sec. 18.** Section 11 of this act shall take effect
32 June 30, 1996.

1 NEW SECTION. **Sec. 19.** Section 5 of this act is necessary for the
2 immediate preservation of the public peace, health, or safety, or
3 support of the state government and its existing public institutions,
4 and shall take effect immediately.

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