
SENATE BILL 5420

State of Washington

55th Legislature

1997 Regular Session

By Senators Fraser, Franklin, Kohl and Fairley; by request of Governor Lowry

Read first time 01/24/97. Referred to Committee on Agriculture & Environment.

1 AN ACT Relating to financing watershed planning and implementation;
2 amending RCW 86.26.007, 86.26.007, 82.24.027, 82.26.025, and
3 70.146.030; adding a new section to chapter 39.42 RCW; adding a new
4 section to chapter 43.135 RCW; adding a new section to chapter 43.21A
5 RCW; adding a new chapter to Title 90 RCW; providing an effective date;
6 providing for submission of certain sections of this act to a vote of
7 the people; and declaring an emergency.

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

9 NEW SECTION. **Sec. 1.** FINDINGS AND PURPOSE. (1) Washington's
10 waters are critical to the economic and environmental well-being of
11 this state's citizens but the state's water and watersheds are
12 seriously threatened. The legislature finds these problems pose great
13 uncertainty for those who depend on watersheds for their economic and
14 environmental well-being, and that the problems increase the risk of
15 federal or judicial interventions stemming from noncompliance with
16 state law and federal treaties and laws.

17 (2) The most effective way to plan, manage, and protect the
18 watershed is at the local level, where there is an intimate
19 relationship with the watershed and concern about how the watershed is

1 to be used. A locally based process that incorporates watershed-wide
2 and regional perspectives is best suited to bring competing interests
3 together to resolve their needs in a mutually acceptable manner.

4 (3) While recognizing the state has a broad-based public interest
5 in water management, a key role of state agencies is to support and
6 complement locally based efforts through technical and financial
7 assistance and coordination of state programs and resource management
8 activities.

9 (4) The legislature finds that greater emphasis must be placed upon
10 implementation of locally developed watershed plans and that the state
11 should assist such implementation through funding assistance.

12 (5) In recognition of these findings, the purpose of this chapter
13 is to support a comprehensive and integrated approach to watershed
14 management and to support implementation of locally based watershed
15 plans to benefit the economic and environmental health of watersheds.

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

19 (1) "Projects" refers to those activities identified within an
20 ongoing or completed watershed plan that would generally qualify for
21 capital budget funding.

22 (2) "Qualified government entity" means general purpose local
23 governments, federally recognized tribal governments, or a consortium
24 of those two types of governments that have the statutory land use
25 authority to engage in water-related planning and management on a
26 regional basis and that have within their jurisdictions a majority of
27 the population and nonfederal land in the watershed.

28 (3) "Watershed" means a watershed administrative unit as defined in
29 WAC 222-22-020, or an identified and definable subset of a watershed
30 administrative unit, WRIA as defined in WAC 173-500-040, or a definable
31 subset or combination of watershed administrative units and WRIAs.

32 NEW SECTION. **Sec. 3.** FUNDING CRITERIA FOR WATERSHED PLAN
33 IMPLEMENTATION. (1) Ongoing or completed watershed plans under this
34 chapter shall meet each of the following criteria to be eligible for
35 funding under this chapter:

1 (a) The geographic scope of the watershed plan shall be at a
2 minimum, an identified and definable subset of a watershed
3 administrative unit;

4 (b) The watershed plan must identify and recommend projects to
5 address, in an integrated and coordinated manner, including one or more
6 of the following: Water quality, water availability, fish habitat,
7 wildlife habitat, flooding, water conservation and reuse, and drinking
8 water;

9 (c) The watershed plan must include a finance plan for identified
10 projects; watershed plans may rely on formal agreements with other
11 entities to provide nonstate funding for plan implementation;

12 (d) The watershed plan must provide a mechanism to evaluate the
13 progress and effectiveness of projects and plan implementation;

14 (e) The watershed plan must be consistent with state and federal
15 law, and shall not conflict with Indian treaties or the beneficial use
16 of existing water rights. The watershed plan must be coordinated and
17 consistent with local, adopted growth management act plans and
18 development regulations. The watershed plan is not to supplant or
19 supercede existing watershed analysis programs and implementing
20 requirements as authorized in state law; and

21 (f) The ongoing or completed watershed plan must be adopted by the
22 qualified government entity applying for funding.

23 (2) Priority ranking shall be granted to watershed plans that meet
24 one or more of the following additional criteria:

25 (a) The geographic scope of a watershed plan includes an entire
26 watershed administrative unit or a WRIA;

27 (b) The watershed plan is comprehensive in scope, identifying and
28 addressing in an integrated manner one or more of the following: Water
29 quantity, water quality, drinking water, fish habitat, wildlife
30 habitat, flooding, recreation, agricultural or economic development,
31 regional transportation, SEPA and the growth management act
32 integration, and other land use or watershed planning efforts;

33 (c) The watershed plan is endorsed by a broad-based watershed
34 council or group representing the major interests in the watershed;

35 (d) The watershed plan has received more than a twenty-five percent
36 commitment of funding or in-kind support from local government, federal
37 agencies, tribal governments, business, or other nonstate sources;

38 (e) The watershed plan is approved as a habitat conservation plan
39 or is approved as an element of a habitat conservation plan under the

1 terms of the federal endangered species act, or contributes
2 significantly to recovering species listed or proposed for listing
3 under the federal endangered species act or state law under WAC
4 232-12-011, 232-12-014, and 232-12-297 and helps prevent future
5 listings under those laws;

6 (f) Watershed plan implementation and monitoring includes a
7 volunteer component that incorporates training and other support for
8 volunteer efforts;

9 (g) The watershed plan contributes significantly to resolving water
10 resource issues in basins closed to new water withdrawals, watersheds
11 chronically impacted by droughts, and watersheds with significant water
12 quality impairment;

13 (h) The watershed plan includes significant water conservation
14 measures or water reuse measures;

15 (i) The watershed plan is integrated with a comprehensive flood
16 hazard management plan that has been updated in the last five years and
17 has been made an optional element of the local government's growth
18 management act comprehensive plan;

19 (j) The watershed plan is developed under chapter 400-12 WAC in the
20 Puget Sound basin; and

21 (k) The watershed plan is cost-effective.

22 (3) The interagency committee for outdoor recreation shall adopt
23 rules pursuant to chapter 34.05 RCW to implement this chapter.

24 NEW SECTION. **Sec. 4.** APPLICATION FOR FUNDING. Those qualified
25 governmental entities applying to the interagency committee for outdoor
26 recreation for funding under this chapter shall:

27 (1) Submit a watershed plan document detailing how it meets the
28 criteria specified in section 3 of this act;

29 (2) Provide a list of prioritized projects within the watershed
30 plan for which funding is sought with estimates for costs and time of
31 completion for each project; and

32 (3) Provide evidence of the twenty-five percent match requirement.

33 NEW SECTION. **Sec. 5.** STATE REVIEW. (1) The interagency committee
34 for outdoor recreation shall convene an interagency team whose duty is
35 to review and evaluate watershed plans submitted for funding
36 consideration. The interagency team shall create a prioritized list of
37 watershed plans and funding recommendations based on how well they meet

1 the funding criteria outlined in section 3 of this act. The
2 interagency team shall consist of nine members with a representative
3 from each of the following:

4 (a) The department of agriculture;

5 (b) The department of ecology;

6 (c) The department of fish and wildlife;

7 (d) The department of health;

8 (e) The department of community, trade, and economic development;

9 (f) The department of transportation;

10 (g) The department of natural resources;

11 (h) The state conservation commission; and

12 (i) The Puget Sound water quality action team.

13 (2) The interagency committee for outdoor recreation shall convene
14 a watershed plan implementation panel to review the prioritized list of
15 watershed plans created by the interagency team. Based on this list,
16 the panel shall make formal, prioritized funding recommendations to the
17 governor to assist with implementing watershed plans.

18 (3) The thirteen-member watershed plan implementation panel shall
19 consist of a citizen from each of the nine congressional districts in
20 the state, a representative each from city and county governments, and
21 two representatives from tribal governments. Members of the panel
22 shall have expertise in issues related to watershed planning. The
23 panel shall, upon request of the interagency committee for outdoor
24 recreation, also advise the interagency committee for outdoor
25 recreation on program rules, policies, and procedures. The director of
26 the interagency committee for outdoor recreation shall appoint the
27 members of the panel who may serve a maximum term of three years.
28 Citizen members of the panel shall receive reimbursement for their
29 travel expenses as provided in RCW 43.03.050 and 43.03.060.

30 (4) State funding for projects that are part of the implementation
31 of a watershed plan shall total no more than seventy-five percent of
32 project costs. The local match may include a proportionate share of
33 watershed plan costs and project design costs. The maximum amount of
34 state funding a watershed plan may receive per biennium shall total no
35 more than four million dollars, which must be expended to implement
36 projects in priority order as identified within the watershed plan.
37 Funding shall be prioritized to those watershed plans not eligible
38 under other state funding programs, including but not limited to
39 programs funded by the public works assistance account in RCW

1 43.155.050, the water quality account in RCW 70.146.030, referendum 26
2 funds in the state and local improvements revolving account in RCW
3 43.83A.030, referendum 38 funds in the state and local improvements
4 revolving account in RCW 43.83B.030, referendum 39 funds in the state
5 and local improvements revolving account, waste disposal facilities in
6 RCW 43.99F.030, the water pollution control revolving fund in RCW
7 90.50A.020, and the Washington wildlife recreation program.

8 NEW SECTION. **Sec. 6.** GOVERNOR APPROVAL. (1) Before October 1st
9 of each even-numbered year, the panel shall submit to the governor a
10 prioritized list of watershed plans and projects contained within those
11 watershed plans for funding under this chapter.

12 (2) The governor may remove watershed plans from the list
13 recommended by the panel, but may not add watershed plans and projects
14 contained within those watershed plans to the list recommended by the
15 panel and shall submit this amended list in the biennial capital budget
16 request to the legislature.

17 NEW SECTION. **Sec. 7.** LEGISLATIVE APPROVAL. (1) The legislature
18 may remove watershed plans from the list recommended by the governor,
19 but may not add watershed plans and projects contained within those
20 watershed plans to the list recommended by the governor.

21 (2) With the exception of plans funded under section 8 of this act
22 that do not require legislative approval or the specific lists of
23 watershed plans, the interagency committee for outdoor recreation shall
24 not sign contracts or otherwise financially obligate funds for
25 watershed plans as provided in this chapter before the legislature has
26 appropriated funds from the watershed resources account created in
27 section 9 of this act for a specific list of watershed plans.

28 NEW SECTION. **Sec. 8.** EARLY ACTION PROJECTS. (1) For watershed
29 plans funded for the biennium ending June 30, 1999, the interagency
30 committee for outdoor recreation shall follow the procedures outlined
31 in sections 3 through 5 of this act and submit a prioritized list of
32 watershed plans to the governor by April 5, 1998.

33 (2) The governor may remove watershed plans from the list
34 recommended by the panel, but may not add watershed plans and projects
35 contained within those watershed plans to the list recommended by the
36 panel. The governor shall forward his approved list of watershed plans

1 to the interagency committee for outdoor recreation by May 1, 1998, for
2 funding implementation. Only those watershed plans with funding
3 recommendations from the governor shall receive grants under this
4 chapter.

5 NEW SECTION. **Sec. 9.** BOND AUTHORIZATION. (1) For the purpose of
6 providing funds for programs and projects to address water quantity,
7 water quality, flooding, and fisheries habitat, the state finance
8 committee is authorized to issue general obligation bonds of the state
9 of Washington in the sum of two hundred fifty-eight million dollars or
10 so much thereof as may be required to finance the implementation of
11 watershed plans that meet the criteria outlined in section 5 of this
12 act, and all costs incidental thereto. No bonds authorized by this
13 section may be offered for sale without prior legislative appropriation
14 of the net proceeds of sale of bonds.

15 (2) The proceeds from the sale of bonds authorized by this section
16 shall be deposited in the watershed resources account created in the
17 state treasury. Moneys in the account may be spent only after
18 appropriation. Expenditures from the account may be used only for the
19 purposes specified in this chapter and for payment of the expenses
20 incurred in the issuance and sale of the bonds.

21 (3) The proceeds from the sale of bonds deposited in the watershed
22 resources account of the general fund under the terms of this chapter
23 shall be administered by the interagency committee for outdoor
24 recreation subject to legislative appropriation. The interagency
25 committee for outdoor recreation may use or permit the use of any funds
26 derived from the sale of bonds authorized under this section by direct
27 expenditures and by grants or loans to public bodies, including grants
28 to public bodies as matching funds for federal, local, and other funds
29 that may be available on a matching basis. The interagency committee
30 for outdoor recreation may use up to three percent of the proceeds from
31 the sale of these bonds to evaluate projects and administer grants.

32 (4) The state finance committee is authorized to prescribe the
33 form, terms, conditions, prices, and covenants of the bonds, the time
34 or times of sale of all or any portion of them, and the conditions and
35 manner of their sale and issuance.

36 (5) The state general obligation bond retirement fund shall be used
37 for the payment of the principal of and interest on the bonds
38 authorized in this section.

1 (6) The state finance committee shall, on or before June 30th of
2 each year, certify to the state treasurer the amount needed in the
3 ensuing fiscal year to meet the bond retirement and interest
4 requirements. On each date that any interest or interest and principal
5 payment is due, the state treasurer shall withdraw from any general
6 state revenues received in the state treasury and deposit it in the
7 general obligation bond retirement fund an amount equal to the amount
8 certified by the state finance committee to be due on the payment date.

9 (7) The bonds issued under subsection (1) of this section shall
10 state that they are a general obligation of the state of Washington,
11 shall pledge the full faith and credit of the state to the payment of
12 the principal thereof and the interest thereon, and shall contain an
13 unconditional promise to pay the principal and interest as the same
14 shall become due.

15 (8) The legislature may provide additional means for raising moneys
16 for the payment of the principal and interest of the bonds authorized
17 in this section, and this section shall not be deemed to provide an
18 exclusive method for such payment.

19 (9) The bonds authorized in this section are a legal investment for
20 all state funds or for funds under state control and for all funds of
21 any other public body.

22 NEW SECTION. **Sec. 10.** EXEMPTION FROM STATUTORY DEBT LIMIT. The
23 bonds authorized in this chapter are exempt from the statutory
24 limitations of indebtedness under RCW 39.42.060.

25 NEW SECTION. **Sec. 11.** EXEMPTION FROM INITIATIVE 601 EXPENDITURE
26 LIMIT. Funds transferred or expended under sections 9 and 15 of this
27 act shall not be considered a money transfer under RCW 43.135.035(4)
28 nor an expenditure subject to the expenditure limit established under
29 RCW 43.135.025.

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

32 NEW SECTION. **Sec. 13.** A new section is added to chapter 39.42 RCW
33 to read as follows:

1 The bonds authorized in chapter 90.-- RCW (sections 1 through 12 of
2 this act) are exempt from the statutory limitations of indebtedness
3 under RCW 39.42.060.

4 NEW SECTION. **Sec. 14.** A new section is added to chapter 43.135
5 RCW to read as follows:

6 Funds transferred or expended under sections 9 and 15 of this act
7 shall not be considered a money transfer under RCW 43.135.035(4) nor an
8 expenditure subject to the expenditure limit established under RCW
9 43.135.025.

10 **Sec. 15.** RCW 86.26.007 and 1997 c . . . s 16 (section 16 of this
11 act) are each amended to read as follows:

12 The flood control assistance account is hereby established in the
13 state treasury. At the beginning of the 1997-99 fiscal biennium and
14 each biennium thereafter the state treasurer shall transfer from the
15 general fund to the flood control assistance account an amount of money
16 which, when combined with money remaining in the account from the
17 previous biennium, will equal (~~four~~) ten million dollars. Moneys in
18 the flood control assistance account may be spent only after
19 appropriation for purposes specified under this chapter and for state
20 and local response and recovery costs associated with federal emergency
21 management agency (FEMA) disasters.

22 **Sec. 16.** RCW 86.26.007 and 1996 c 283 s 903 are each amended to
23 read as follows:

24 The flood control assistance account is hereby established in the
25 state treasury. At the beginning of the 1997-99 fiscal biennium and
26 each biennium thereafter the state treasurer shall transfer from the
27 general fund to the flood control assistance account an amount of money
28 which, when combined with money remaining in the account from the
29 previous biennium, will equal four million dollars. Moneys in the
30 flood control assistance account may be spent only after appropriation
31 for purposes specified under this chapter (~~(or, during the 1995-97~~
32 ~~biennium,))~~ and for state and local response and recovery costs
33 associated with federal emergency management agency (FEMA) disasters
34 (~~(number 1079 (November/December 1995 storms), FEMA disaster number~~
35 ~~1100 (February 1996 floods), and for prior biennia disaster recovery~~
36 ~~costs. To the extent that moneys in the flood control assistance~~

1 ~~account are not appropriated during the 1995-97 fiscal biennium for~~
2 ~~flood control assistance, the legislature may direct their transfer to~~
3 ~~the state general fund)).~~

4 **Sec. 17.** RCW 82.24.027 and 1986 c 3 s 12 are each amended to read
5 as follows:

6 There is hereby levied and there shall be collected by the
7 department of revenue from the persons mentioned in and in the manner
8 provided by this chapter, an additional tax upon the sale, use,
9 consumption, handling, possession, or distribution of cigarettes in an
10 amount equal to the rate of four mills per cigarette.

11 The moneys collected under this section shall be deposited in the
12 water quality account under RCW 70.146.030 (~~through June 30, 2021, and~~
13 ~~in the general fund thereafter)).~~

14 **Sec. 18.** RCW 82.26.025 and 1986 c 3 s 14 are each amended to read
15 as follows:

16 (1) In addition to the taxes imposed under RCW 82.26.020, there is
17 levied and there shall be collected a tax upon the sale, use,
18 consumption, handling, or distribution of all tobacco products in this
19 state at the rate of sixteen and three-fourths percent of the wholesale
20 sales price of such tobacco products. Such tax shall be imposed at the
21 time the distributor (a) brings, or causes to be brought, into this
22 state from without the state tobacco products for sale, (b) makes,
23 manufactures, or fabricates tobacco products in this state for sale in
24 this state, or (c) ships or transports tobacco products to retailers in
25 this state, to be sold by those retailers.

26 (2) The moneys collected under this section shall be deposited in
27 the water quality account under RCW 70.146.030 (~~through June 30, 2021,~~
28 ~~and in the general fund thereafter)).~~

29 NEW SECTION. **Sec. 19.** A new section is added to chapter 43.21A
30 RCW to read as follows:

31 WATER RESOURCE ADMINISTRATION ACCOUNT. The water resource
32 administration account is hereby created in the state treasury. Moneys
33 deposited in the account shall be administered by the department of
34 ecology and are subject to legislative appropriation. Moneys in the
35 account may be used for watershed-related activities, including but not
36 limited to:

- 1 (1) State agency programs in support of local watershed planning
- 2 and implementation efforts;
- 3 (2) Water resource data management programs;
- 4 (3) Administration of the water right permit processing program;
- 5 (4) Basin assessments;
- 6 (5) Setting of instream flows;
- 7 (6) Programs that promote water conservation;
- 8 (7) Implementation of the Puget Sound water quality action plan;
- 9 and
- 10 (8) Salmon recovery programs.

11 **Sec. 20.** RCW 70.146.030 and 1996 c 37 s 2 are each amended to read
12 as follows:

13 (1) The water quality account is hereby created in the state
14 treasury. Moneys in the account may be used only in a manner
15 consistent with this chapter. Moneys deposited in the account shall be
16 administered by the department of ecology and shall be subject to
17 legislative appropriation. Moneys placed in the account shall include
18 tax receipts as provided in RCW 82.24.027, 82.26.025, and 82.32.390,
19 principal and interest from the repayment of any loans granted pursuant
20 to this chapter, and any other moneys appropriated to the account by
21 the legislature.

22 (2) The department may use or permit the use of any moneys in the
23 account to make grants or loans to public bodies, including grants to
24 public bodies as cost-sharing moneys in any case where federal, local,
25 or other funds are made available on a cost-sharing basis, for water
26 pollution control facilities and activities, or for purposes of
27 assisting a public body to obtain an ownership interest in water
28 pollution control facilities and/or to defray a part of the payments
29 made by a public body to a service provider under a service agreement
30 entered into pursuant to RCW 70.150.060, within the purposes of this
31 chapter and for related administrative expenses. No more than three
32 percent of the moneys deposited in the account may be used by the
33 department to pay for the administration of the grant and loan program
34 authorized by this chapter.

35 (3) Beginning with the biennium ending June 30, 1997, the
36 department shall present a biennial progress report on the use of
37 moneys from the account to the chairs of the senate committee on ways
38 and means and the house of representatives committee on appropriations.

1 The first report is due June 30, 1996, and the report for each
2 succeeding biennium is due December 31 of the odd-numbered year. The
3 report shall consist of a list of each recipient, project description,
4 and amount of the grant, loan, or both.

5 (4) (~~During the fiscal biennium ending June 30, 1997,~~) Moneys in
6 the account may be transferred by the legislature to the water right
7 permit processing account and the water resource administration
8 account.

9 NEW SECTION. **Sec. 21.** Sections 1 through 12 of this act
10 constitute a new chapter in Title 90 RCW.

11 NEW SECTION. **Sec. 22.** The secretary of state shall submit
12 sections 1 through 15 and 21 of this act to the people for their
13 adoption and ratification, or rejection, at the general election to be
14 held in this state on the Tuesday next succeeding the first Monday in
15 November 1997, in accordance with the provisions of section 3, Article
16 VIII of the Constitution of the state of Washington, as amended, and
17 section 1, Article II of the Constitution of the state of Washington as
18 amended, and the laws adopted to facilitate the operation thereof.

19 NEW SECTION. **Sec. 23.** Sections 16 through 20 of this act are
20 necessary for the immediate preservation of the public peace, health,
21 or safety, or support of the state government and its existing public
22 institutions, and take effect July 1, 1997.

--- END ---