

2 **SHB 1448** - S AMD - 425
3 By Senators Spanel and Gardner

4

5 Strike everything after the enacting clause and insert the
6 following:

7 NEW SECTION. **Sec. 1.** In order to encourage the cleanup of
8 contaminated areas of aquatic lands, the legislature finds that there
9 have been efforts in Washington to pursue cooperative processes among
10 public agencies and private parties to achieve comprehensive cleanup of
11 toxic contamination on aquatic lands and to avoid the delays and costs
12 of litigation that often characterize the cleanup of complex toxic
13 waste sites. The legislature recognizes that state and local policies
14 and practices in the past have contributed to contamination of state-
15 owned aquatic lands. In meeting its responsibility to contribute to
16 the remediation of contaminated sediments, the state may use state-
17 owned aquatic lands for the disposal and remediation of contaminated
18 sediments.

19 The legislature further recognizes that local governments, through
20 the shoreline management act, chapter 90.58 RCW, and the growth
21 management act, chapter 36.70A RCW, have planned comprehensively in
22 conjunction with the state and with port districts for the land uses
23 that will occur on and around aquatic lands, and that cleanup decisions
24 should be consistent with these local plans.

25 Therefore the legislature declares the purpose of this act is to
26 reaffirm the need for all state agencies, local communities, local and
27 special purpose governments, federal agencies, tribes, and other
28 interests to seek timely and environmentally protective cleanup
29 solutions for state-owned aquatic lands. It is further the purpose of
30 this act to provide criteria to guide the parties in making cleanup
31 decisions.

32 NEW SECTION. **Sec. 2.** A new section is added to chapter 79.90 RCW
33 to read as follows:

34 (1) For purposes of this section, "cooperating agencies" means the
35 department of ecology, department of natural resources, department of

1 fish and wildlife, general purpose and special purpose local
2 governments, federal agencies and tribal governments that have entered
3 a memorandum of agreement or comparable statement of intent to work
4 cooperatively toward a comprehensive cleanup of one or more sites of
5 contaminated aquatic lands.

6 (2) When evaluating alternatives for remedial action for
7 contaminated sediments from state or federally required cleanups of
8 aquatic areas, it is appropriate to consider the full range of cleanup
9 and disposal alternatives, including the use of state-owned aquatic
10 lands as part of the remedial action or as mitigation for the habitat
11 impacts of such cleanup or disposal actions. In examining alternatives
12 for remedial action, the cooperating agencies shall consult with other
13 affected governments and private parties. In selecting disposal sites
14 under this section, the cooperating agencies shall strive to limit the
15 number of separate disposal locations.

16 (3) In examining a proposal to use state-owned aquatic lands for
17 disposal or habitat mitigation, the cooperating agencies shall evaluate
18 a range of alternatives that consider habitat impacts, impacts to
19 navigation and water-borne commerce, cost, and the benefits of
20 expeditiously reducing the availability of hazardous substances to the
21 environment. The disposal or containment of contaminated sediments on
22 state-owned aquatic lands may be made only in an approved multi-user
23 confined aquatic disposal site, or when the following conditions are
24 met:

25 (a) Such use presents the most environmentally protective option
26 among a reasonable range of upland, nearshore, and in-water disposal
27 options;

28 (b) There are no unacceptable adverse environmental impacts from
29 the loss of nearshore vegetated aquatic habitat; and

30 (c) The action is consistent with applicable comprehensive land use
31 plans adopted under chapter 36.70A RCW and shoreline master programs
32 adopted under chapter 90.58 RCW; and

33 (d) The normal use of harbor areas for commerce and navigation is
34 not impaired.

35 (4) If the department of ecology determines in the exercise of its
36 regulatory authority under chapter 70.105D that the preferred
37 alternative for remedial action involves the use of state-owned aquatic
38 lands, and the department of natural resources disagrees with the
39 determination, the departments shall seek to resolve their differences

1 in a timely manner. If the departments are unable to resolve the
2 dispute, the departments may use mediation or other methods of
3 alternative dispute resolution to seek a resolution.

4 (5) In the event that the departments of ecology and natural
5 resources are unable to resolve the dispute in following the procedures
6 of subsection (4), the mediator or other third party facilitator used
7 by the departments shall immediately notify the governor and the
8 commissioner of public lands, who shall seek to resolve the dispute.
9 If the governor and commissioner of public lands are unable within
10 sixty days of such notification to agree upon actions to resolve the
11 dispute, they shall immediately report the impasse, including
12 alternatives considered and not adopted, to the standing environmental
13 and natural resources committees of the senate and the house of
14 representatives.

15 NEW SECTION. **Sec. 3.** The Puget Sound action team shall monitor
16 the progress of analysis and selection of remedial action alternatives
17 by cooperating agencies under section 2 of this act. No later than
18 January 1 of each year beginning in 2000, the team shall provide a
19 report on such progress to the standing environmental and natural
20 resources committees of the senate and house of representatives.

21 NEW SECTION. **Sec. 4.** This act and the authorities granted under
22 this act shall terminate on July 1, 2004. However, such termination
23 shall not affect any action taken prior to such date under the
24 authority of this act.

25 Renumber the sections consecutively and correct any internal
26 references accordingly.

27 **SHB 1448** - S AMD - 425
28 By Senator Spanel and Gardner

29
30 On page 1, on line 2 of the title, after "sediments;" delete
31 everything through "section" on line 3 and insert "adding a new section
32 to chapter 70.90 RCW; and creating new sections"

--- END ---