
HOUSE BILL 2301

State of Washington 56th Legislature 1999 1 Special Session

By Representatives Hatfield, Doumit, Kessler, Buck, Eickmeyer, Koster and Grant

Read first time . Referred to Committee on .

1 AN ACT Relating to the relationship between endangered species,
2 growth management, and the shorelines of the state; amending RCW
3 90.58.080, 90.58.060, 36.70A.480, and 75.46.050; adding new sections to
4 chapter 90.58 RCW; adding a new section to chapter 36.70A RCW; and
5 creating a new section.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 90.58 RCW
8 to read as follows:

9 The implementation of the shoreline management act through
10 shoreline master programs requires a full integration with the
11 necessary habitat protection measures for threatened and endangered
12 species. The inclusion of specie protection requirements are not fully
13 defined until the development and approval of species recovery plans
14 for each federally listed threatened or endangered species listed under
15 the endangered species act (16 U.S.C. Sec. 1531 et seq.).

16 The shoreline master program guidelines rule, adopted under RCW
17 90.58.060, shall be consistent with the habitat protection elements
18 necessary for the recovery of listed species as defined in the
19 federally developed recovery plans for each listed evolutionarily

1 significant unit. However, the guidelines may not be used as the
2 states' enforcement tool to require compliance with any federal law.
3 Recovery plans for each listed species may vary markedly due to
4 scientific findings that apply to each species' biological needs and
5 limiting factors. These variations in biological requirements
6 necessary for the recovery of each individual specie shall be
7 incorporated into shoreline master programs through the review and
8 approval of the shoreline master program by the independent science
9 panel established under RCW 75.46.050.

10 Premature adoption of shoreline master program guidelines or
11 alterations in local shoreline master programs may cause uncertainty
12 and place unnecessary financial burdens upon private landowners and
13 city and county governments if changes are made before an independent
14 science panel review and finalization of federal recovery plans, thus
15 necessitating a number of major plan revisions within a short period of
16 time, all occurring before vital scientific review has been
17 accomplished at the state and federal level.

18 NEW SECTION. **Sec. 2.** A new section is added to chapter 90.58 RCW
19 to read as follows:

20 The department shall suspend the adoption of shoreline master
21 program guidelines until such time as federal salmon recovery plans are
22 finalized for each threatened or endangered species listed under the
23 endangered species act (16 U.S.C. Sec. 1531 et seq.). Only upon
24 completion and approval of a federal specie recovery plan shall a city
25 or county incorporate those findings into a new shoreline master
26 program for the geographic area covered by federal listing.

27 **Sec. 3.** RCW 90.58.080 and 1995 c 347 s 305 are each amended to
28 read as follows:

29 Local governments shall develop or amend(~~(, within twenty-four~~
30 ~~months after the adoption of guidelines as provided in RCW 90.58.060,))
31 a master program for regulation of uses of the shorelines of the state
32 consistent with the required elements of the guidelines adopted by the
33 department.~~

34 If amendments to shoreline master programs are identified as high
35 priority limiting factors, as defined in RCW 75.46.010, for salmon
36 recovery, review and revision for compliance with guidelines adopted
37 subsequent to May 1999 shall occur within thirty-six months. However,

1 if a city or a county is located in a rural natural resources impact
2 area, as defined in RCW 43.160.020, amendments to its shoreline master
3 program shall not be required unless the provisions in the current
4 shoreline master program have been found to be inadequate according to
5 peer review by the independent science panel created by RCW 75.46.050.
6 Further, if amendments to shoreline master programs are identified as
7 high priority limiting factors, as defined in RCW 75.46.010, for salmon
8 recovery, review and revision for compliance with guidelines adopted
9 subsequent to May 1999 shall occur within thirty-six months.

10 NEW SECTION. Sec. 4. A new section is added to chapter 90.58 RCW
11 to read as follows:

12 The department shall submit each draft revised shoreline master
13 program to the independent science panel authorized under RCW 75.46.050
14 for purposes of review, comment, and approval. The department shall
15 not approve a shoreline master program unless the independent science
16 panel has approved it in its entirety. The independent science panel
17 must certify that the program is the best scientific methodology that
18 will lead to specie recovery.

19 NEW SECTION. Sec. 5. A new section is added to chapter 90.58 RCW
20 to read as follows:

21 The independent science panel created in RCW 75.46.050, in
22 cooperation with the Washington association of counties and the
23 Washington association of cities, shall report annually to the
24 legislature concerning the effects of this chapter and chapter 36.70A
25 RCW on the recovery of endangered species.

26 NEW SECTION. Sec. 6. A new section is added to chapter 36.70A RCW
27 to read as follows:

28 The growth management hearings boards created in RCW 36.70A.250,
29 working in cooperation with the association of Washington counties and
30 the association of Washington cities, shall report to the legislature
31 annually concerning local actions to integrate the shoreline management
32 act, chapter 90.58 RCW, and the growth management provisions of this
33 chapter.

34 NEW SECTION. Sec. 7. The department of ecology shall hold a
35 public hearing on the draft shoreline management rules filed with the

1 code reviser's office on April 7, 1999, in any county where the county
2 legislative authority requests such a hearing, prior to December 31,
3 1999. The legislature shall review the rules and their impact during
4 the 2000 regular session and make any necessary changes in law. The
5 department of ecology shall delay implementation of the rules as
6 provided in section 2 of this act.

7 **Sec. 8.** RCW 90.58.060 and 1995 c 347 s 304 are each amended to
8 read as follows:

9 (1) The department shall periodically review and adopt guidelines
10 consistent with RCW 90.58.020, containing the elements specified in RCW
11 90.58.100 for:

12 (a) Development of master programs for regulation of the uses of
13 shorelines; and

14 (b) Development of master programs for regulation of the uses of
15 shorelines of state-wide significance.

16 (2) Before adopting or amending guidelines under this section, the
17 department shall provide an opportunity for public review and comment
18 as follows:

19 (a) The department shall mail copies of the proposal to all cities,
20 counties, and federally recognized Indian tribes, and to any other
21 person who has requested a copy, and shall publish the proposed
22 guidelines in the Washington state register. Comments shall be
23 submitted in writing to the department within sixty days from the date
24 the proposal has been published in the register.

25 (b) The department shall hold at least four public hearings on the
26 proposal in different locations throughout the state to provide a
27 reasonable opportunity for residents in all parts of the state to
28 present statements and views on the proposed guidelines. Notice of the
29 hearings shall be published at least once in each of the three weeks
30 immediately preceding the hearing in one or more newspapers of general
31 circulation in each county of the state. If an amendment to the
32 guidelines addresses an issue limited to one geographic area, the
33 number and location of hearings may be adjusted consistent with the
34 intent of this subsection to assure all parties a reasonable
35 opportunity to comment on the proposed amendment. The department shall
36 accept written comments on the proposal during the sixty-day public
37 comment period and for seven days after the final public hearing.

1 (c) At the conclusion of the public comment period, the department
2 shall review the comments received and modify the proposal consistent
3 with the provisions of this chapter. The proposal shall then be
4 published for adoption pursuant to the provisions of chapter 34.05 RCW.

5 (3) The department may propose amendments to the guidelines not
6 more than once each year. At least once every five years the
7 department shall conduct a review of the guidelines pursuant to the
8 procedures outlined in subsection (2) of this section.

9 (4) This section is subject to the provisions of chapter . . . ,
10 Laws of 1999 (this act).

11 **Sec. 9.** RCW 36.70A.480 and 1995 c 347 s 104 are each amended to
12 read as follows:

13 (1) For shorelines of the state, the goals and policies of the
14 shoreline management act as set forth in RCW 90.58.020 are added as one
15 of the goals of this chapter as set forth in RCW 36.70A.020. The goals
16 and policies of a shoreline master program for a county or city
17 approved under chapter 90.58 RCW shall be considered an element of the
18 county or city's comprehensive plan. The goals and policies of a
19 shoreline master program for a county or a city approved under chapter
20 90.58 RCW after April 7, 1999, shall be considered an element of the
21 county or city's comprehensive plan only after a scientific review of
22 the shoreline master program conducted by the independent science panel
23 in RCW 75.46.050. All other portions of the shoreline master program
24 for a county or city adopted under chapter 90.58 RCW, including use
25 regulations, shall be considered a part of the county or city's
26 development regulations.

27 (2) The shoreline master program shall be adopted pursuant to the
28 procedures of chapter 90.58 RCW rather than the procedures set forth in
29 this chapter for the adoption of a comprehensive plan or development
30 regulations.

31 **Sec. 10.** RCW 75.46.050 and 1998 c 246 s 6 are each amended to read
32 as follows:

33 (1) The governor shall request the national academy of sciences,
34 the American fisheries society, or a comparable institution to screen
35 candidates to serve as members on the independent science panel. The
36 institution that conducts the screening of the candidates shall submit
37 a list of the nine most qualified candidates to the governor, the

1 speaker of the house of representatives, and the majority leader of the
2 senate. The candidates shall reflect expertise in habitat requirements
3 of salmon, protection and restoration of salmon populations, artificial
4 propagation of salmon, hydrology, or geomorphology.

5 (2) The speaker of the house of representatives and the majority
6 leader in the senate shall each remove one name from the nomination
7 list. The governor shall consult with tribal representatives and the
8 governor shall appoint five scientists from the remaining names on the
9 nomination list.

10 (3) The members of the independent science panel shall serve four-
11 year terms. The independent science panel members shall elect the
12 chair of the panel among themselves every two years. The members of
13 the independent science panel shall be compensated as provided in RCW
14 43.03.250 and reimbursed for travel expenses in accordance with RCW
15 43.03.050 and 43.03.060.

16 (4) The independent science panel shall be governed by generally
17 accepted guidelines and practices governing the activities of
18 independent science boards such as the national academy of sciences.
19 The purpose of the independent science panel is to help ensure that
20 sound science is used in salmon recovery efforts. The governor's
21 salmon recovery office shall request review of salmon recovery plans by
22 the science review panel. The science review panel does not have the
23 authority to review individual projects or project lists developed
24 under RCW 75.46.060, 75.46.070, and 75.46.080 or to make policy
25 decisions.

26 (5) The independent science panel shall act as the peer review
27 panel for state shorelines master program guideline rules adopted under
28 RCW 90.58.060, and all local shoreline master programs and growth
29 management plans that would affect endangered species.

30 (6) The independent science panel shall submit its findings to the
31 legislature and the governor.

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