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**SUBSTITUTE HOUSE BILL 2391**

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**State of Washington**

**56th Legislature**

**2000 Regular Session**

**By** House Committee on Local Government (originally sponsored by Representatives Doumit, Mulliken, Scott, Mielke, Hatfield, Fortunato, Grant, Linville, Kessler, Edwards, Mastin and Talcott)

Read first time 02/03/2000. Referred to Committee on .

1 AN ACT Relating to shoreline planning; amending RCW 90.58.060 and  
2 90.58.080; adding new sections to chapter 90.58 RCW; creating a new  
3 section; providing an expiration date; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that protection of  
6 threatened and endangered species requires review of state and local  
7 land use planning efforts. The legislature finds that conflicts may  
8 arise from local government and state agency efforts to coordinate  
9 requirements under the shoreline management act and the growth  
10 management act with the federal endangered species act. These  
11 conflicts should appropriately be addressed through collaborative  
12 negotiations involving state agencies, local governments, and  
13 stakeholders and should be reviewed by the legislature.

14 (2) The legislature further finds that incentives may be  
15 appropriate to enhance protection of critical habitat for fish and  
16 wildlife species.

17 (3) Therefore, the legislature finds that there is a need to  
18 evaluate the effectiveness and efficiency of state and local land use  
19 planning protecting threatened and endangered species and to establish

1 timelines for agency rule making related to shorelines to correspond  
2 with funding for local shoreline master programs and with collaborative  
3 negotiations with federal agencies regarding assurances for endangered  
4 species protection.

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

7 (1) The joint task force on shoreline planning is created to  
8 consist of the following twenty-eight members or their designees:

9 (a) The following eight members of the house of representatives:

10 (i) The co-chairs of the committee on appropriations; (ii) the co-  
11 chairs of the committee on local government; (iii) the co-chairs of the  
12 committee on natural resources; and (iv) the co-chairs of the committee  
13 on agriculture and ecology;

14 (b) The following eight members of the senate: (i) The chair and  
15 ranking minority of the committee on ways and means; (ii) the chair and  
16 ranking minority of the committee on state and local government; (iii)  
17 the chair and ranking minority of the committee on natural resources;  
18 and (iv) the chair and ranking minority of the committee on water  
19 resources;

20 (c) One nonvoting member from the office of the governor with  
21 expertise in shoreline planning;

22 (d) Three nonvoting members shall be appointed jointly by the co-  
23 speakers of the house of representatives and the majority and minority  
24 leaders of the senate, representing the citizens of the state;

25 (e) Two nonvoting members shall be appointed jointly by the co-  
26 speakers of the house of representatives and the majority and minority  
27 leaders of the senate from nominations by the association of Washington  
28 cities;

29 (f) Two nonvoting members shall be appointed jointly by the co-  
30 speakers of the house of representatives and the majority and minority  
31 leaders of the senate from nominations by the Washington state  
32 association of counties;

33 (g) Two nonvoting members shall be appointed jointly by the co-  
34 speakers of the house of representatives and the majority and minority  
35 leaders of the senate from nominations by environmental groups;

36 (h) Two nonvoting members shall be appointed jointly by the co-  
37 speakers of the house of representatives and the majority and minority  
38 leaders of the senate from nominations by the business community.

1 (2) The nonlegislative members of the task force on shoreline  
2 planning shall serve without compensation, but shall be reimbursed for  
3 travel expenses as provided in RCW 43.03.050 and 43.03.060.  
4 Legislative members of the joint task force on shoreline planning shall  
5 be reimbursed for travel expenses as provided in RCW 44.04.120. The  
6 staff of senate committee services and the office of program research  
7 of the house of representatives shall provide administrative and  
8 clerical assistance to the joint task force on shoreline planning.

9 (3) The joint task force on shoreline planning shall be co-chaired  
10 by one senator, chosen by the task force, and one state representative,  
11 chosen by the task force, from opposite parties. A quorum for any  
12 meeting or hearing shall be six members. The co-chairs may appoint  
13 experts and advisors as nonvoting members of the joint task force on  
14 shoreline planning to provide input on various subjects. Only the  
15 legislative members of the joint task force may vote on the adoption of  
16 findings, conclusions, or recommendations. Any final findings,  
17 conclusions, or recommendations of the joint task force on shoreline  
18 planning must be agreed to by at least eight legislative members;  
19 however, minority findings, conclusions, or recommendations may be  
20 included that are submitted by any legislative member or group of  
21 legislative members. The open public meetings act shall apply to all  
22 meetings and hearings of the joint task force on shoreline planning.  
23 Rules of procedure shall be established at the first meeting of the  
24 joint task force on shoreline planning.

25 NEW SECTION. **Sec. 3.** A new section is added to chapter 90.58 RCW  
26 to read as follows:

27 (1) The joint task force on shoreline planning shall review and  
28 make recommendations for legislation and policy regarding: (a) The use  
29 of the shoreline management act planning and permitting process to  
30 establish the measures necessary and appropriate to avoid harm to and  
31 protect and preserve threatened and endangered species and their  
32 habitat while preserving economic growth and development; (b) the  
33 integration of multiple land use laws, planning activities, and  
34 permitting systems to enhance the efficiency and effectiveness of  
35 regulatory programs for public and private property owners and lessen  
36 the costs associated with measures necessary and appropriate to avoid  
37 harm to and to protect and preserve fish and wildlife species and their  
38 habitat; (c) a schedule and funding sources for development and

1 amendment of shoreline master programs for local governments identified  
2 in RCW 90.58.080(2)(b); (d) an accurate evaluation of the immediate and  
3 ongoing costs to all local governments of implementing revised  
4 guidelines; (e) identification of necessary funding for local  
5 governments to implement such changes as may be recommended; (f)  
6 regulatory flexibility that allows shoreline planning to reflect the  
7 value and use of habitat, geographic and economic diversity, existing  
8 patterns of development, and individual community circumstances and  
9 concerns; (g) mechanisms for prioritizing shoreline regulation to focus  
10 on areas where there is a demonstrated need for added protection; (h)  
11 incentives for landowners and local governments to enhance protection  
12 of shorelines; and (i) opportunities for the development of  
13 programmatic approaches for permitting programs.

14 (2) The joint task force on shoreline planning shall coordinate, to  
15 the extent possible, with the national marine fisheries service and the  
16 United States fish and wildlife service to ensure that species  
17 protection provided under the shoreline management act meets federal  
18 protection requirements under the endangered species act.

19 (3) The joint task force on shoreline planning shall commence July  
20 1, 2000, periodically report its findings and any recommendations to  
21 the legislature, and present a final report addressing the  
22 recommendations of the joint task force on shoreline planning to the  
23 legislature by December 31, 2001.

24 **Sec. 4.** RCW 90.58.060 and 1995 c 347 s 304 are each amended to  
25 read as follows:

26 (1) The department shall periodically review and adopt guidelines  
27 consistent with RCW 90.58.020, containing the elements specified in RCW  
28 90.58.100 for:

29 (a) Development of master programs for regulation of the uses of  
30 shorelines; and

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

33 (2)(a) Before adopting or amending guidelines under this section,  
34 the department shall convene a work group to develop guidelines. The  
35 work group shall include representatives of all affected public  
36 agencies and interest groups, including but not limited to state  
37 agencies, counties, cities, other affected local governments, business  
38 associations, agriculture, aquaculture, environmental associations, and

1 building industry associations. The department shall invite and  
2 encourage the participation of tribal governments and of federal and  
3 state agencies responsible for federal clean water act and endangered  
4 species act enforcement. The department shall use a negotiated  
5 decision-making process to develop the guidelines.

6 (b) Among other issues, in developing the guidelines, the  
7 department and the work group shall focus on and prioritize the  
8 restoration and enhancement of urban shoreline environments west of the  
9 crest of the Cascade mountain range that are listed as water quality  
10 limited segments under section 303(d) of the federal clean water act.  
11 The department and the work group shall develop strategies to address  
12 issues, including but not limited to contaminated sediments, storm  
13 water, land uses, hydraulic permit, and other activities, that may  
14 affect water quality and endangered species protection in these areas.  
15 The department and the work group shall include these strategies in the  
16 guidelines and prioritize mechanisms to address water quality problems  
17 and endangered species protection in these areas.

18 (c) When the negotiated process specified in this subsection has  
19 resulted in the development of guidelines, the department shall seek  
20 federal assurances from federal agencies responsible for federal  
21 endangered species act enforcement that the shoreline uses and  
22 activities governed by the guidelines and the local shoreline master  
23 programs developed or amended pursuant to these guidelines will not be  
24 subject to additional regulations or restrictions for purposes of  
25 federal endangered species act compliance. The department shall not  
26 proceed with adoption of the guidelines developed according to this  
27 subsection until it has received the federal assurances.

28 (3) After completing the process required by subsection (2) of this  
29 section and before the guidelines are adopted, the department shall  
30 provide an opportunity for public review and comment as follows:

31 (a) The department shall mail copies of the proposal to all cities,  
32 counties, and federally recognized Indian tribes, and to any other  
33 person who has requested a copy, and shall publish the proposed  
34 guidelines in the Washington state register. Comments shall be  
35 submitted in writing to the department within sixty days from the date  
36 the proposal has been published in the register.

37 (b) The department shall hold at least four public hearings on the  
38 proposal in different locations throughout the state to provide a  
39 reasonable opportunity for residents in all parts of the state to

1 present statements and views on the proposed guidelines. Notice of the  
2 hearings shall be published at least once in each of the three weeks  
3 immediately preceding the hearing in one or more newspapers of general  
4 circulation in each county of the state. If an amendment to the  
5 guidelines addresses an issue limited to one geographic area, the  
6 number and location of hearings may be adjusted consistent with the  
7 intent of this subsection to assure all parties a reasonable  
8 opportunity to comment on the proposed amendment. The department shall  
9 accept written comments on the proposal during the sixty-day public  
10 comment period and for seven days after the final public hearing.

11 (c) At the conclusion of the public comment period, the department  
12 shall review the comments received and modify the proposal consistent  
13 with the provisions of this chapter. The department shall seek federal  
14 assurances for any modifications of the guidelines and shall obtain  
15 federal assurances before proceeding to adopt the modified guidelines.  
16 The proposal shall then be published for adoption pursuant to the  
17 provisions of chapter 34.05 RCW.

18 ~~((+3+))~~ (4) The department may propose amendments to the guidelines  
19 not more than once each year. At least once every ~~((five))~~ seven years  
20 the department shall conduct a review of the guidelines pursuant to the  
21 procedures outlined in subsection ~~((+2+))~~ (3) of this section.

22 (5) For the purposes of this section, "federal assurances" has the  
23 same application and effect for shoreline uses and activities as  
24 specified in RCW 75.46.350 for forest practices.

25 **Sec. 5.** RCW 90.58.080 and 1995 c 347 s 305 are each amended to  
26 read as follows:

27 (1) Local governments shall develop or amend ~~((, within twenty-four~~  
28 ~~months after the adoption of guidelines as provided in RCW 90.58.060,))~~  
29 a master program for regulation of uses of the shorelines of the state  
30 consistent with the required elements of the guidelines adopted by the  
31 department within the time specified by subsection (2) of this section.

32 (2)(a) Counties with populations greater than two hundred twenty-  
33 five thousand in 1999 as determined by the office of financial  
34 management and that are located west of the crest of the Cascade  
35 mountain range and the cities and towns therein with shorelines of the  
36 state shall review their master programs for compliance with the  
37 guidelines and adopt or amend master programs as necessary within

1 thirty-six months after the adoption of guidelines as provided in RCW  
2 90.58.060.

3 (b) For all counties, cities, and towns with shorelines of the  
4 state that are not subject to (a) of this subsection, a schedule for  
5 review and development or amendment of shoreline master programs shall  
6 be approved by the legislature after recommendations from the joint  
7 task force are submitted as provided in section 3 of this act.

8 NEW SECTION. Sec. 6. This act is necessary for the immediate  
9 preservation of the public peace, health, or safety, or support of the  
10 state government and its existing public institutions, and takes effect  
11 immediately.

12 NEW SECTION. Sec. 7. Sections 1 through 3 of this act expire June  
13 30, 2002.

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