
SUBSTITUTE SENATE BILL 5545

State of Washington

56th Legislature

1999 Regular Session

By Senate Committee on Environmental Quality & Water Resources
(originally sponsored by Senators Fraser and Kline)

Read first time 03/03/99.

1 AN ACT Relating to water pollution control; amending RCW 90.48.260;
2 adding a new section to chapter 90.48 RCW; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** The federal clean water act requires the
5 development of a total maximum daily load for those waters of the state
6 that are impaired with pollutants and are listed subject to section
7 303(d) of the clean water act. In 1998, the federal environmental
8 protection agency settled a lawsuit challenging the failure to develop
9 total maximum daily loads under section 303(d) of the clean water act.
10 The resulting consent decree established a fifteen-year timeline for
11 the state of Washington to complete development of total maximum daily
12 loads. It is the intent of the legislature to meet the water quality
13 standards within the established timeline or more quickly if possible
14 by meeting established standards.

15 In addition to developing total maximum daily loads, the
16 legislature supports efforts of the state to attain water quality
17 standards using other water pollution control programs that will result
18 in meeting water quality standards sooner than the fifteen-year
19 schedule under the consent decree.

1 There are many benefits to the state of the department of ecology's
2 ability to achieve water quality standards and make progress on the
3 schedule described in the settlement agreement. The benefits include
4 improved water quality; greater certainty for regulated industry and
5 businesses; the ability to address needs under the federal endangered
6 species act, 16 U.S.C. Secs. 1531 through 1534; and the confidence the
7 state's citizens have gained that the state is making progress in
8 attaining fishable, swimmable, drinkable waters.

9 It is the intent of the legislature that the state maintain high
10 water quality standards and that the list of impaired and polluted
11 waters in the state not grow in number. The legislature intends that
12 the waters on the 303(d) list be cleaned up and that clean waters not
13 be allowed to become impaired or polluted. Waters not currently on the
14 list should not be allowed to degrade to the point that they must be
15 added to the list.

16 It is further the intent that the actions of the state, local
17 government, and the private sector should not cause further
18 deterioration of water quality.

19 **Sec. 2.** RCW 90.48.260 and 1988 c 220 s 1 are each amended to read
20 as follows:

21 The department of ecology is hereby designated as the State Water
22 Pollution Control Agency for all purposes of the federal clean water
23 act as it exists on February 4, 1987, and is hereby authorized to
24 participate fully in the programs of the act as well as to take all
25 action necessary to secure to the state the benefits and to meet the
26 requirements of that act. With regard to the national estuary program
27 established by section 320 of that act, the department shall exercise
28 its responsibility jointly with the Puget Sound ((~~water quality~~
29 ~~authority~~)) action team. The powers granted herein include, among
30 others, and notwithstanding any other provisions of chapter 90.48 RCW
31 or otherwise, the following:

32 (1) Complete authority to establish and administer a comprehensive
33 state point source waste discharge or pollution discharge elimination
34 permit program which will enable the department to qualify for full
35 participation in any national waste discharge or pollution discharge
36 elimination permit system and will allow the department to be the sole
37 agency issuing permits required by such national system operating in
38 the state of Washington subject to the provisions of RCW 90.48.262(2).

1 Program elements authorized herein may include, but are not limited
2 to: (a) Effluent treatment and limitation requirements together with
3 timing requirements related thereto; (b) applicable receiving water
4 quality standards requirements; (c) requirements of standards of
5 performance for new sources; (d) pretreatment requirements; (e)
6 termination and modification of permits for cause; (f) requirements for
7 public notices and opportunities for public hearings; (g) appropriate
8 relationships with the secretary of the army in the administration of
9 his responsibilities which relate to anchorage and navigation, with the
10 administrator of the environmental protection agency in the performance
11 of his duties, and with other governmental officials under the federal
12 clean water act; (h) requirements for inspection, monitoring, entry,
13 and reporting; (i) enforcement of the program through penalties,
14 emergency powers, and criminal sanctions; (j) a continuing planning
15 process; and (k) user charges.

16 (2) The power to establish and administer state programs in a
17 manner which will insure the procurement of moneys, whether in the form
18 of grants, loans, or otherwise; to assist in the construction,
19 operation, and maintenance of various water pollution control
20 facilities and works; and the administering of various state water
21 pollution control management, regulatory, and enforcement programs.

22 (3) The power to develop and implement appropriate programs
23 pertaining to continuing planning processes, area-wide waste treatment
24 management plans, and basin planning, and complete authority to
25 implement the consent decree in *Northwest Environmental Advocates, et*
26 *al. v. Environmental Protection Agency* entered in the United States
27 district court for the western district of Washington on January 20,
28 1998.

29 The governor shall have authority to perform those actions required
30 of him or her by the federal clean water act.

31 NEW SECTION. Sec. 3. A new section is added to chapter 90.48 RCW
32 to read as follows:

33 (1) The department shall develop and implement a plan for
34 soliciting public comment on the development and implementation of
35 total maximum daily loads required by section 303(d) of the federal
36 clean water act, 33 U.S.C. Sec. 1313(d). The purpose of the plan is to
37 solicit public comment that: (a) Is consistent with the complexity of
38 the pollution problems causing the water quality impairment; and (b)

1 reflects the extent of community and public participation the
2 department deems necessary to implement the total maximum daily load
3 successfully. The plan shall consider the formation or use of
4 watershed committees, public meetings, and other avenues to obtain
5 public input.

6 (2) The department shall publish in the Washington State Register,
7 the list required by section 303(d) of the clean water act, 33 U.S.C.
8 Sec. 1313(d)(1). The department shall also publish in the Washington
9 State Register a notice and summary of any total maximum daily load
10 established for such waters as required by section 303(d) of the clean
11 water act, 33 U.S.C. Sec. 1313(d)(1). Such lists and total maximum
12 daily loads need not be adopted as rules under the state administrative
13 procedure act, chapter 34.05 RCW.

--- END ---