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SENATE BILL 6108

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State of Washington                      56th Legislature    1999 1st Special Session

By Senator Snyder

Read first time 05/17/1999.    Referred to Committee on Environmental Quality & Water Resources.

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

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 the  
10 shoreline master program requires a full integration with the necessary  
11 habitat protection measures for threatened and endangered species. The  
12 inclusion of specie protection requirements are not fully defined until  
13 the development and approval of a threatened or endangered specie  
14 recovery plan is developed for each federally listed evolutionarily  
15 significant unit by the federal regulatory agency charged with the  
16 development of the recovery plan for that specie.

17            The shoreline master program guidelines shall be consistent with  
18 the habitat protection elements necessary for the recovery of listed  
19 species as defined in the federally developed recovery plans for each

1 listed evolutionarily significant unit. However, the guidelines may  
2 not be used as the states' enforcement tool to require compliance with  
3 any federal law. Recovery plans for each listed species may vary  
4 markedly due to scientific findings that apply to each species'  
5 biological needs and limiting factors. These variations in biological  
6 requirements necessary for the recovery of each individual specie shall  
7 be 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 alteration of the shoreline management act state master  
11 program may cause uncertainty and place unnecessary financial burdens  
12 upon private landowners and city and county governments if changes are  
13 made before an independent science panel review and finalization of  
14 federal recovery plans, thus necessitating a number of major plan  
15 revisions within a short period of time, all occurring before vital  
16 scientific review has been accomplished at the state and federal level.

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

19 The department shall suspend the revision of all shoreline  
20 management act master programs until such time as federal threatened or  
21 endangered salmon recovery plans are finalized for each evolutionarily  
22 significant unit. Only upon completion and approval of a federal  
23 specie recovery plan shall the department incorporate those findings  
24 into a new shoreline master program for the geographic area covered by  
25 federal threatened or endangered listing.

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

28 The department shall submit each draft shoreline master plan to the  
29 independent science panel authorized under RCW 75.46.050 for purposes  
30 of review, comment, and approval. The department shall not adopt a  
31 shoreline master plan unless the independent science panel has approved  
32 it in its entirety. The independent science panel must certify that  
33 the plan is the best scientific methodology that will lead to specie  
34 recovery.

35 NEW SECTION. **Sec. 4.** A new section is added to chapter 90.58 RCW  
36 to read as follows:

1 The independent science panel created in RCW 75.46.050, in  
2 cooperation with the Washington association of counties and the  
3 Washington association of cities, shall report annually to the  
4 legislature concerning the effects of this chapter and chapter 36.70A  
5 RCW on the recovery of endangered species.

6 NEW SECTION. **Sec. 5.** A new section is added to chapter 36.70A RCW  
7 to read as follows:

8 The growth management hearings boards created in RCW 36.70A.250,  
9 working in cooperation with the association of Washington counties and  
10 the association of Washington cities, shall report to the legislature  
11 annually concerning local actions to integrate the shoreline management  
12 act, chapter 90.58 RCW, and the growth management provisions of this  
13 chapter.

14 NEW SECTION. **Sec. 6.** By January 1, 2002, the department of  
15 community, trade, and economic development must provide to the  
16 legislature recommendations on how to compensate landowners for  
17 restrictions on land use incurred due to the growth management act,  
18 chapter 36.70A RCW, and the shoreline management act, chapter 90.58  
19 RCW.

20 NEW SECTION. **Sec. 7.** A new section is added to chapter 36.70A RCW  
21 to read as follows:

22 Until such time as criteria and a full compensation plan have been  
23 approved by the legislature, state and local governments may not  
24 require any change in shoreline land use that is in effect as of  
25 January 1, 1999. The designation of lands to be stream buffers under  
26 this chapter, and the shoreline management act, chapter 90.58 RCW, may  
27 not take effect until full compensation is enacted into law by the  
28 legislature.

29 Shoreline management guidelines shall apply uniformly to all  
30 shoreline lands for all land use designations under this chapter.

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

33 Until such time as criteria and a full compensation plan have been  
34 approved by the legislature, state and local governments may not  
35 require any change in shoreline land use that is in effect as of

1 January 1, 1999. The designation of lands to be stream buffers under  
2 this chapter, and the growth management act, chapter 36.70A RCW, may  
3 not take effect until full compensation is enacted into law by the  
4 legislature.

5 NEW SECTION. **Sec. 9.** The department of ecology shall hold a  
6 public hearing on the draft shoreline management rules proposed on  
7 March 30, 1999, in any county where the county legislative authority  
8 requests such a hearing, prior to December 31, 1999. The legislature  
9 shall review the rules and their impact during the 2000 regular session  
10 and make any necessary changes in law. The department of ecology shall  
11 delay implementation of the rules as provided in chapter . . . ., Laws of  
12 1999 (this act).

13 NEW SECTION. **Sec. 10.** A new section is added to chapter 90.58 RCW  
14 to read as follows:

15 Counties and cities have the sole authority to define the  
16 application of best available science and adaptive management  
17 principles to the policies, ordinances, and administrative procedures  
18 used to implement this chapter.

19 NEW SECTION. **Sec. 11.** A new section is added to chapter 90.58 RCW  
20 to read as follows:

21 The legislature reaffirms that the provisions of this chapter do  
22 not apply to construction and practices normal or necessary for  
23 farming, irrigation, and ranching activities, including agricultural  
24 service roads and utilities on shorelands, and the construction and  
25 maintenance of irrigation structures including but not limited to head  
26 gates, pumping facilities, and irrigation channels.

27 **Sec. 12.** RCW 90.58.060 and 1995 c 347 s 304 are each amended to  
28 read as follows:

29 (1) The department shall periodically review and adopt guidelines  
30 consistent with RCW 90.58.020, containing the elements specified in RCW  
31 90.58.100 for:

32 (a) Development of master programs for regulation of the uses of  
33 shorelines; and

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

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

4 (a) The department shall mail copies of the proposal to all cities,  
5 counties, and federally recognized Indian tribes, and to any other  
6 person who has requested a copy, and shall publish the proposed  
7 guidelines in the Washington state register. Comments shall be  
8 submitted in writing to the department within sixty days from the date  
9 the proposal has been published in the register.

10 (b) The department shall hold at least four public hearings on the  
11 proposal in different locations throughout the state to provide a  
12 reasonable opportunity for residents in all parts of the state to  
13 present statements and views on the proposed guidelines. Notice of the  
14 hearings shall be published at least once in each of the three weeks  
15 immediately preceding the hearing in one or more newspapers of general  
16 circulation in each county of the state. If an amendment to the  
17 guidelines addresses an issue limited to one geographic area, the  
18 number and location of hearings may be adjusted consistent with the  
19 intent of this subsection to assure all parties a reasonable  
20 opportunity to comment on the proposed amendment. The department shall  
21 accept written comments on the proposal during the sixty-day public  
22 comment period and for seven days after the final public hearing.

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

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

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

33 **Sec. 13.** RCW 36.70A.480 and 1995 c 347 s 104 are each amended to  
34 read as follows:

35 (1) For shorelines of the state, the goals and policies of the  
36 shoreline management act as set forth in RCW 90.58.020 are added as one  
37 of the goals of this chapter as set forth in RCW 36.70A.020. The goals  
38 and policies of a shoreline master program for a county or city

1 approved under chapter 90.58 RCW shall be considered an element of the  
2 county or city's comprehensive plan. The goals and policies of a  
3 shoreline master program for a county or a city approved under chapter  
4 90.58 RCW shall be considered an element of the county or city's  
5 comprehensive plan only after a scientific review of the shoreline  
6 master program conducted by the independent science panel in RCW  
7 75.46.050. All other portions of the shoreline master program for a  
8 county or city adopted under chapter 90.58 RCW, including use  
9 regulations, shall be considered a part of the county or city's  
10 development regulations.

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

15 **Sec. 14.** RCW 75.46.050 and 1998 c 246 s 6 are each amended to read  
16 as follows:

17 (1) The governor shall request the national academy of sciences,  
18 the American fisheries society, or a comparable institution to screen  
19 candidates to serve as members on the independent science panel. The  
20 institution that conducts the screening of the candidates shall submit  
21 a list of the nine most qualified candidates to the governor, the  
22 speaker of the house of representatives, and the majority leader of the  
23 senate. The candidates shall reflect expertise in habitat requirements  
24 of salmon, protection and restoration of salmon populations, artificial  
25 propagation of salmon, hydrology, or geomorphology.

26 (2) The speaker of the house of representatives and the majority  
27 leader in the senate shall each remove one name from the nomination  
28 list. The governor shall consult with tribal representatives and the  
29 governor shall appoint five scientists from the remaining names on the  
30 nomination list.

31 (3) The members of the independent science panel shall serve four-  
32 year terms. The independent science panel members shall elect the  
33 chair of the panel among themselves every two years. The members of  
34 the independent science panel shall be compensated as provided in RCW  
35 43.03.250 and reimbursed for travel expenses in accordance with RCW  
36 43.03.050 and 43.03.060.

37 (4) The independent science panel shall be governed by generally  
38 accepted guidelines and practices governing the activities of

1 independent science boards such as the national academy of sciences.  
2 The purpose of the independent science panel is to help ensure that  
3 sound science is used in salmon recovery efforts. The governor's  
4 salmon recovery office shall request review of salmon recovery plans by  
5 the science review panel. The science review panel does not have the  
6 authority to review individual projects or project lists developed  
7 under RCW 75.46.060, 75.46.070, and 75.46.080 or to make policy  
8 decisions.

9 (5) The independent science panel shall act as the peer review  
10 panel for all state and local shoreline master plans and growth  
11 management plans that would affect endangered species.

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

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