

# SENATE BILL REPORT

## SB 5332

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As of January 30, 2003

**Title:** An act relating to watershed planning.

**Brief Description:** Concerning watershed planning grants and implementation lead agencies.

**Sponsors:** Senators Honeyford, Fraser, Parlette, B. Sheldon, Hale, Regala, Hewitt and Doumit; by request of Governor Locke.

**Brief History:**

**Committee Activity:** Natural Resources, Energy & Water: 1/28/03.

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### SENATE COMMITTEE ON NATURAL RESOURCES, ENERGY & WATER

**Staff:** Evan Sheffels (786-7486)

**Background:** Chapter 90.82 RCW establishes procedures and policies for voluntary watershed planning at the local level. Planning is conducted according to the Water Resource Inventory Area (WRIA), with each WRIA corresponding to a watershed or river basin. Planning is currently being conducted in three phases: (1) initiation and organization of a planning unit; (2) water quantity assessment and water use strategies; and (3) development of a watershed plan and recommendations for action. Any requirement that local entities provide matching funds is prohibited.

The efforts of the earliest watershed planning units are expected to come to fruition in 2003. Planning units may approve a proposed watershed plan by consensus, or alternatively, by a consensus among the governmental unit members and a majority vote of non-governmental members. By majority vote, counties can approve or reject, but not amend, the planning unit's proposed watershed plan. RCW 90.82.130 contains hearing and notice procedures for county adoption of, or recommendations to revise, watershed plans. Once plans are adopted, implementation becomes the next order of business. The watershed planning statutes do not provide specific direction or funding for watershed plan implementation or for subsequent modification of an adopted plan.

"Implementing rules," as defined in RCW 90.82.020, "are the rules needed to give force and effect to the parts of a plan that create rights or obligations for any party including a state agency or that establish water management policy." Any watershed planning result or effect that imposes a fiscal impact, a redeployment of resources, or a policy change upon a tribal, county, or state government is said to create an obligation. A government entity can only become obligated if that government agency's designated representative on the planning unit is recorded as having voted in favor of such an obligation.

Where both state agencies and counties are obligated under a watershed plan, an obligated state agency is required to adopt rules setting forth and binding those new obligations upon both state and county governments. State agencies are also required to adopt rules to

implement or give force and effect to the agency's watershed management obligations. Likewise, county governments must adopt implementing ordinances, as necessary, to give force and effect to the county's binding obligations. Adoption by rule is the exclusive method for agencies to adopt binding obligations for counties and agencies. Adoption by rule for state agencies, and by ordinance for counties, is the only authorized method for those entities to adopt implementing rules giving force and effect to their respective obligations.

**Summary of Bill:** Chapter 90.82 RCW is amended to create a structure for local oversight, to be performed by the planning unit or an alternative group. A detailed watershed implementation plan with specific agreements, funding sources and schedules, must be completed by the end of the first year of phase four activities. Ongoing implementation funding is conditioned upon the Department of Ecology's receipt of a sufficiently detailed implementation plan. The detailed implementation plan must include plans for coordination with salmon recovery project lead entities.

The ability to accept obligations related to watershed planning is extended to all governments that choose to agree to them. Local, tribal, or other governmental units may become implementing governments by formally accepting obligations for watershed plan implementation. Only such implementing governments may participate in the selection of an implementation lead agency charged with facilitating and tracking progress and coordinating the various actions being performed in the watershed.

The chosen "implementation lead agency" is the only entity authorized to apply for a phase four implementation grant. Up to \$100,000 is authorized per WRIA for the first three years of phase four funding (with an additional \$25,000 for each additional WRIA addressed). Funding extensions of up to \$50,000 per WRIA are authorized for years four and five (with an additional \$12,500 per year for each additional WRIA). A local match of 10 to 25 percent, which may be procured from a variety of authorized sources and entities, is required.

Current methods are expanded to allow agencies to incur binding obligations by adopting policies, procedures, or other agreements, as well as rules. An agency's implementation plan for giving force and effect to such binding obligations can be adopted through procedures, as well as rules. Other organizations voluntarily incurring binding obligations must adopt policies, procedures, agreements, rules, or ordinances to give force and effect to such obligations.

Agencies, counties, and organizations are advised to review budget and staffing needs related to phase four implementation. Implementing governments are advised to review approved watershed plans periodically for needed modification. In order to be binding, any amendment to an approved watershed plan must be adopted by the county legislative authority in accordance with the public notice, hearing and revision procedures in RCW 90.82.130.

**Appropriation:** None.

**Fiscal Note:** Requested on January 22, 2003.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Recommendations from the Watershed Implementation Committee are included in the bill. Funding recommendations in the bill also came from their "phase four" committee. The executive branch believes in the idea of integrating watershed planning and salmon habitat planning to reduce duplication of effort. This legislation is needed so that watershed plans can actually be implemented on the ground, in the watershed, and not just put on the shelf. Resources provided by the bill are necessary so that water resource planning requirements are not just another unfunded mandate on local governments.

**Testimony Against:** Coordination with salmon planning groups often proves difficult, though legislative clarification of the relationship between watershed and salmon planning would be helpful. Allowing state agencies to implement their part of watershed obligations by policy, procedure and other methods rather than the currently authorized rules should only be allowed with the planning unit's approval and recommendation. Do not change the rules mid-stream. There are already too many layers of councils, lead agencies, initiating governments, etc. This leads to redundant talk and little action. This bill adds to the problem with the creation of a new implementation lead agency. Watershed and salmon planning processes need to be streamlined, not duplicated. The bill is too complicated, and should be less prescriptive.

**Testified:** Jim Milton, Tri-County Water Resource Agency (pro); Dueane Calvin, TCWRA (concerns); Bernard J. Sims, TCWRA (pro); Kathleen Collins, WA Water Policy Alliance (concerns); Dawn Vyvyan, Yakama Nation (concerns); Willy O'Neil, AGC of WA (con); Jim Waldo, Governor's Office (pro).