
HOUSE BILL 2959

State of Washington 58th Legislature 2004 Regular Session

By Representatives Schindler and Mielke

Read first time 01/23/2004. Referred to Committee on Local Government.

1 AN ACT Relating to modifying provisions for best available science
2 by clarifying that the requirement to include best available science in
3 designating and protecting critical areas is procedural rather than
4 substantive and including criteria for the application of scientific
5 information; and amending RCW 36.70A.172.

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

7 **Sec. 1.** RCW 36.70A.172 and 1995 c 347 s 105 are each amended to
8 read as follows:

9 (1) In designating and protecting critical areas under this
10 chapter, counties and cities shall include the best available science
11 in developing policies and development regulations to protect the
12 functions and values of critical areas. In addition, counties and
13 cities shall give special consideration to conservation or protection
14 measures necessary to preserve or enhance anadromous fisheries.

15 (2) ~~((If it determines that advice from scientific or other experts
16 is necessary or will be of substantial assistance in reaching its
17 decision, a growth management hearings board may retain scientific or
18 other expert advice to assist in reviewing a petition under RCW
19 36.70A.290 that involves critical areas))~~ (a) The requirement to

1 include the best available science is procedural, rather than
2 substantive, and means consideration of scientific information, as
3 defined in (b) of this subsection, which most applies to the physical
4 and biological setting under consideration.

5 (b) For the purposes of this section, "scientific information"
6 means information derived from a process utilizing recognized methods
7 and principles to test hypotheses and reach greater understanding about
8 the workings of the physical world. The characteristics of a sound
9 scientific process include, as applicable: (i) Findings that have been
10 critically reviewed by qualified scientific experts in the field; (ii)
11 methods that are standard in the field or peer-reviewed; (iii)
12 conclusions that are logical and the inferences drawn from those
13 conclusions reasonable given the data and methods; (iv) data that has
14 been analyzed using standard or peer-reviewed quantitative or
15 statistical methods; (v) data and findings that are placed in their
16 proper context; and (vi) assumptions, analytical techniques, and
17 conclusions that are shown to be supported by reference to relevant,
18 credible scientific literature.

19 (3) Not all sources of sound scientific information incorporate all
20 of the generally accepted characteristics of science, as defined in
21 subsection (2)(b) of this section. However, the more characteristics
22 that are incorporated into the process, the more sound and reliable the
23 conclusions are likely to be.

24 (4) If scientific information that directly applies to a given
25 physical context is not available, a county or city need not conduct or
26 commission new scientific studies to fill gaps in the existing
27 scientific record in order to have complied with the requirements of
28 this section. Rather, a county or city may employ experimental
29 approaches to designate and protect critical areas: PROVIDED, That if
30 a county or city develops a policy or regulation regarding a critical
31 area on information that does not satisfy all of the characteristics of
32 science, or on conflicting scientific information, the county or city
33 shall employ monitoring and adaptive management techniques to learn
34 whether the approach used is adequately protecting the functions and
35 values of that critical area, and adjust the approach as necessary to
36 achieve adequate protection.

37 (5) If it determines that advice from scientific or other experts
38 is necessary or will be of substantial assistance in reaching its

1 decision, a growth management hearings board may retain scientific or
2 other expert advice to assist in reviewing a petition under RCW
3 36.70A.290 that involves critical areas.
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