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**SUBSTITUTE SENATE BILL 5658**

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**State of Washington**

**58th Legislature**

**2003 Regular Session**

**By** Senate Committee on Land Use & Planning (originally sponsored by Senators Mulliken, Haugen, T. Sheldon, Morton and Rasmussen)

READ FIRST TIME 02/27/03.

1 AN ACT Relating to the use of best available science in developing  
2 critical areas policies and regulations; amending RCW 36.70A.172; and  
3 creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that there is a need  
6 to clarify its intent in enacting the requirement that best available  
7 science be included in developing policies and development regulations  
8 to protect critical areas. The legislature intends that best available  
9 science be considered by all counties and cities in the procedures by  
10 which they develop policies and regulations for each type of critical  
11 area. The legislature also intends that counties and cities have  
12 discretion in applying scientific information and determining what  
13 constitutes best available science within their jurisdictions.

14 **Sec. 2.** RCW 36.70A.172 and 1995 c 347 s 105 are each amended to  
15 read as follows:

16 (1) In designating and protecting critical areas under this  
17 chapter, counties and cities shall (~~include~~) consider the best  
18 available science in developing policies and development regulations to

1 protect the functions and values of critical areas. In addition,  
2 counties and cities shall give special consideration to conservation or  
3 protection measures necessary to preserve or enhance anadromous  
4 fisheries. The requirements for counties and cities to consider best  
5 available science and conservation or protection measures shall be  
6 procedural requirements, not substantive requirements for the final  
7 adopted plans or regulations.

8 (2) In developing policies and development regulations, counties  
9 and cities: (a) May not consider approaches to protecting critical  
10 areas based on science derived from a different physical context than  
11 the one at issue, unless the approach is theoretically sound and  
12 specifically applicable to the physical context at issue, as determined  
13 by the county or city upon consultation with a qualified scientific  
14 expert in the applicable field or fields of science; (b) are not  
15 restricted to a precautionary or no-risk approach where there is an  
16 absence of adequate science applicable to the physical context at  
17 issue; and (c) should consider the cost-effectiveness of each  
18 alternative approach to protecting critical areas.

19 (3) If it determines that advice from scientific or other experts  
20 is necessary or will be of substantial assistance in reaching its  
21 decision, a growth management hearings board may retain scientific or  
22 other expert advice to assist in reviewing a petition under RCW  
23 36.70A.290 that involves critical areas. In reaching its decision, a  
24 board shall give deference to the local government findings and  
25 conclusions in the record of developing the plans or regulations under  
26 review if the procedure by which the plans or regulations were adopted  
27 complies with this chapter.

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