
SENATE BILL 5691

State of Washington 58th Legislature 2003 Regular Session

By Senators Regala, Kohl-Welles, Carlson, Fairley, Kline and McAuliffe

Read first time 02/06/2003. Referred to Committee on Natural Resources, Energy & Water.

1 AN ACT Relating to wetlands mitigation projects; amending RCW
2 90.82.070; adding a new section to chapter 90.74 RCW; and creating new
3 sections.

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

5 NEW SECTION. **Sec. 1.** The legislature intends that this act
6 improve the scientific basis for making decisions in site selection for
7 wetlands mitigation projects.

8 The legislature further intends that this act maximize the cost-
9 effectiveness of public and private investment in compensatory wetland
10 mitigation projects.

11 NEW SECTION. **Sec. 2.** The legislature finds that wetlands are
12 important aquatic resources that provide many valuable functions such
13 as flood control, ground water recharge, water filtration, water
14 purification, and erosion control. These functions make them important
15 to protect property and property values, promote quality neighborhoods,
16 and to protect and enhance wildlife and the wetlands' associated
17 ecosystems.

1 When impacts to wetlands are permitted, the creation, restoration,
2 or enhancement of other wetlands are generally required. The
3 legislature further finds that recent studies of the effectiveness of
4 compensatory wetland mitigation projects show that over seventy percent
5 are failing. The principal reasons stem from failure during the
6 permitting process to adequately investigate the practical
7 relationships between the proposed project and the local water
8 resources that will be associated with it. There has also been a
9 finding that, frequently, the original wetland functioned better than
10 the mitigated wetland, such that a net loss of wetland area and
11 functions frequently occurs in spite of the mitigation project.

12 **Sec. 3.** RCW 90.82.070 and 2001 2nd sp.s. c 19 s 2 are each amended
13 to read as follows:

14 Watershed planning under this chapter shall address water quantity
15 in the management area by undertaking an assessment of water supply and
16 use in the management area and developing strategies for future use.

17 (1) The assessment shall include:

18 (a) An estimate of the surface and ground water present in the
19 management area;

20 (b) An estimate of the surface and ground water available in the
21 management area, taking into account seasonal and other variations;

22 (c) An estimate of the water in the management area represented by
23 claims in the water rights claims registry, water use permits,
24 certificated rights, existing minimum instream flow rules, federally
25 reserved rights, and any other rights to water;

26 (d) An estimate of the surface and ground water actually being used
27 in the management area;

28 (e) An estimate of the water needed in the future for use in the
29 management area;

30 (f) An identification of the location of areas where aquifers are
31 known to recharge surface bodies of water (~~and~~), the location of
32 areas known to provide for the recharge of aquifers from the surface,
33 and the relationship between these aquifers and nearby surface and
34 ground water; and

35 (g) An estimate of the surface and ground water available for
36 further appropriation, taking into account the minimum instream flows

1 adopted by rule or to be adopted by rule under this chapter for streams
2 in the management area including the data necessary to evaluate
3 necessary flows for fish.

4 (2) Strategies for increasing water supplies in the management
5 area, which may include, but are not limited to, increasing water
6 supplies through water conservation, water reuse, the use of reclaimed
7 water, voluntary water transfers, aquifer recharge and recovery,
8 additional water allocations, or additional water storage and water
9 storage enhancements. The objective of these strategies is to supply
10 water in sufficient quantities to satisfy the minimum instream flows
11 for fish and to provide water for future out-of-stream uses for water
12 identified in subsection (1)(e) and (g) of this section and to ensure
13 that adequate water supplies are available for agriculture, energy
14 production, and population and economic growth under the requirements
15 of the state's growth management act, chapter 36.70A RCW. These
16 strategies, in and of themselves, shall not be construed to confer new
17 water rights. The watershed plan must address the strategies required
18 under this subsection.

19 (3) The assessment may include the identification of potential site
20 locations for water storage projects. The potential site locations may
21 be for either large or small projects and cover the full range of
22 possible alternatives. The possible alternatives include off-channel
23 storage, underground storage, the enlargement or enhancement of
24 existing storage, and on-channel storage.

25 (4) The assessment may also include an identification of the
26 location of areas where wetlands exist, areas that provide the
27 potential for wetlands restoration, and areas with potential for use in
28 wetlands mitigation projects.

29 NEW SECTION. Sec. 4. A new section is added to chapter 90.74 RCW
30 to read as follows:

31 (1) The department of ecology shall review wetlands compensatory
32 mitigation projects and evaluate the adequacy of hydrological
33 information presented by a project proponent to determine the
34 likelihood of success of the project.

35 (2) The department may require a hydrological assessment of the
36 site.

1 (3) The hydrological assessment must be sufficiently detailed to
2 demonstrate that the mitigation site will attain a hydrologic regime to
3 meet the goals presented in the proponent's compensatory mitigation
4 project.

5 (4) The hydrological assessment should identify the relationship
6 between the proponent's compensatory wetlands mitigation project and
7 the site's existing ground water and surface water.

8 (5) If a proposed wetlands compensation project targets specific
9 functions, the hydrological assessment must demonstrate that the site
10 will achieve a hydrologic regime needed to develop and support these
11 functions.

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