S-3806.1

SENATE BILL 6335

State of Washington 58th Legislature 2004 Regular Session

By Senators Mulliken and Kline

Read first time 01/19/2004. Referred to Committee on Land Use & Planning.

AN ACT Relating to defining and clarifying best available science; amending RCW 36.70A.172; and creating a new section.

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

NEW SECTION. **Sec. 1.** The intent of the legislature is to assist local governments, state agencies, and citizens in planning under the growth management act. The legislature does not intend to change the best available science requirement or the state procedural criteria adopted to implement that requirement.

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

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

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

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

(3) "Best available science" is defined as follows:

(a) "Best available" in this context means science, as defined below, which applies to the physical and biological setting under consideration and is practically and economically feasible to be implemented, as shown by the evidence in the record. A city or county need not conduct or commission new scientific studies to fill gaps in the existing scientific information.

(b) "Science" means a process involving sound methods to reach conclusions to understand the workings of the natural world. The characteristics of a sound scientific process include, as applicable, (i) findings that have been critically reviewed by qualified scientific experts in the field; (ii) methods that are standard in the field or peer reviewed; (iii) conclusions that are logical and the inferences drawn from those conclusions reasonable given the data and methods; (iv) data that has been analyzed using standard or peer reviewed quantitative or statistical methods; (v) data and findings that are considered in their proper physical and biological context; and (vi) assumptions, analytical techniques, and conclusions that are referenced to relevant, credibly sound scientific literature.

(4) Not all sources of sound scientific information incorporate all of the generally accepted characteristics of science, as defined in subsection (3)(b) of this section. However, the more characteristics that are incorporated into the process, the more sound and reliable the conclusions are likely to be. The broader the range of valid science, the broader the range of discretion allowed to a city or county. If local governments choose within that range, their decision is valid.

(5) Local governments may employ innovative approaches to protect critical areas when such approaches include best available science, as defined in subsection (3)(b) of this section.

(6) Local governments may employ experimental approaches to protect critical areas. However, if a local government bases a management decision regarding a critical area on information that does not satisfy all of the characteristics of science, or on conflicting scientific information, the local government must minimize risk and employ monitoring and adaptive management to learn whether the approach used

is adequately protecting the functions and values of that critical area, and adjust the approach as necessary to ensure protection of critical area functions and values.

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