
SENATE BILL 6412

State of Washington

58th Legislature

2004 Regular Session

By Senators Fraser, Keiser and Kline

Read first time 01/20/2004. Referred to Committee on Natural Resources, Energy & Water.

1 AN ACT Relating to designating the lead agency for public proposals
2 under the state environmental policy act; amending RCW 43.21C.030 and
3 43.21C.110; and adding new sections to chapter 43.21C RCW.

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

5 **Sec. 1.** RCW 43.21C.030 and 1971 ex.s. c 109 s 3 are each amended
6 to read as follows:

7 (1) The legislature authorizes and directs that, to the fullest
8 extent possible(~~(1)~~), the policies, regulations, and laws of the
9 state of Washington shall be interpreted and administered in accordance
10 with the policies set forth in this chapter(~~, and (2)~~).

11 (2) The legislature authorizes and directs that, to the fullest
12 extent possible, all branches of government of this state, including
13 state agencies, municipal and public corporations, and counties shall:

14 (a) Utilize a systematic, interdisciplinary approach which will
15 insure the integrated use of the natural and social sciences and the
16 environmental design arts in planning and in decision making which may
17 have an impact on man's environment;

18 (b) Identify and develop methods and procedures, in consultation
19 with the department of ecology (~~and the ecological commission~~),

1 ((which)) that will insure ((that)) presently unquantified
2 environmental amenities and values will be given appropriate
3 consideration in decision making along with economic and technical
4 considerations;

5 (c) Include in every recommendation or report on proposals for
6 legislation and other major actions significantly affecting the quality
7 of the environment((7)) a detailed statement, to be known as an
8 environmental impact statement, by the ((responsible official)) lead
9 agency on:

10 (i) The environmental impact of the proposed action;

11 (ii) Any adverse environmental effects ((which)) that cannot be
12 avoided should the proposal be implemented;

13 (iii) Alternatives to the proposed action;

14 (iv) The relationship between local short-term uses of man's
15 environment and the maintenance and enhancement of long-term
16 productivity; and

17 (v) Any irreversible and irretrievable commitments of resources
18 ((which)) that would be involved in the proposed action should it be
19 implemented;

20 (d) ((Prior to making any detailed statement, the responsible
21 official shall consult with and obtain the comments of any public
22 agency which has jurisdiction by law or special expertise with respect
23 to any environmental impact involved. Copies of such statement and the
24 comments and views of the appropriate federal, province, state, and
25 local agencies, which are authorized to develop and enforce
26 environmental standards, shall be made available to the governor, the
27 department of ecology, the ecological commission, and the public, and
28 shall accompany the proposal through the existing agency review
29 processes)) Cooperate in designating a lead agency other than the
30 agency that is the primary sponsor or proponent of a project or
31 proposal, as required by section 3 of this act, from the other agencies
32 with jurisdiction by law or special expertise with respect to any
33 environmental impact involved;

34 (e) Study, develop, and describe appropriate alternatives to
35 recommended courses of action in any proposal ((which)) that involves
36 unresolved conflicts concerning alternative uses of available
37 resources;

1 (f) Recognize the world-wide and long-range character of
2 environmental problems and, where consistent with state policy, lend
3 appropriate support to initiatives, resolutions, and programs designed
4 to maximize international cooperation in anticipating and preventing a
5 decline in the quality of mankind's world environment;

6 (g) Make available to the federal government, other states,
7 provinces of Canada, municipalities, institutions, and individuals,
8 advice and information useful in restoring, maintaining, and enhancing
9 the quality of the environment; and

10 (h) Initiate and utilize ecological information in the planning and
11 development of natural resource-oriented projects.

12 (3) Before completing an environmental impact statement required by
13 subsection (2)(c) of this section, the responsible official shall
14 consult with and obtain the comments of any public agency that has
15 jurisdiction by law or special expertise with respect to any
16 environmental impact involved. Copies of the environmental impact
17 statement and the comments and views of the appropriate federal,
18 province, state, and local agencies that are authorized to develop and
19 enforce environmental standards shall be made available to the
20 governor, the department of ecology, and the public and shall accompany
21 the proposal through the existing agency review processes.

22 **Sec. 2.** RCW 43.21C.110 and 1997 c 429 s 47 are each amended to
23 read as follows:

24 It shall be the duty and function of the department of ecology:

25 (1) To adopt and amend thereafter rules of interpretation and
26 implementation of this chapter, subject to the requirements of chapter
27 34.05 RCW, for the purpose of providing uniform rules and guidelines to
28 all branches of government, including state agencies, political
29 subdivisions, public and municipal corporations, and counties. The
30 proposed rules shall be subject to full public hearings requirements
31 associated with rule promulgation. Suggestions for modifications of
32 the proposed rules shall be considered on their merits, and the
33 department shall have the authority and responsibility for full and
34 appropriate independent promulgation and adoption of rules, assuring
35 consistency with this chapter (~~as amended~~) and with the preservation
36 of protections afforded by this chapter. The rule-making powers

1 authorized in this section shall include, but shall not be limited to,
2 the following phases of interpretation and implementation of this
3 chapter:

4 (a) Categories of governmental actions (~~(which)~~) that are not to be
5 considered as potential major actions significantly affecting the
6 quality of the environment, including categories pertaining to
7 applications for water right permits pursuant to chapters 90.03 and
8 90.44 RCW. The types of actions included as categorical exemptions in
9 the rules shall be limited to those types (~~(which)~~) that are not major
10 actions significantly affecting the quality of the environment. The
11 rules shall provide for certain circumstances where actions (~~(which)~~)
12 that potentially are categorically exempt require environmental review.
13 An action that is categorically exempt under the rules adopted by the
14 department may not be conditioned or denied under this chapter(~~(-)~~);

15 (b) Rules for criteria and procedures applicable to the
16 determination of when an act of a branch of government is a major
17 action significantly affecting the quality of the environment for which
18 a detailed statement is required to be prepared pursuant to RCW
19 43.21C.030(~~(-)~~);

20 (c) Rules and procedures applicable to the preparation of detailed
21 statements and other environmental documents, including but not limited
22 to rules for timing of environmental review, obtaining comments, data
23 and other information, and providing for and determining areas of
24 public participation which shall include the scope and review of draft
25 environmental impact statements(~~(-)~~);

26 (d) Scope of coverage and contents of detailed statements assuring
27 that such statements:

28 (i) Are simple, uniform, and as short as practicable;
29 (~~(statements)~~)

30 (ii) Are required to analyze only reasonable alternatives and
31 probable adverse environmental impacts (~~(which)~~) that are
32 significant(~~(-)~~); and

33 (iii) May analyze beneficial impacts(~~(-)~~);

34 (e) Rules and procedures for public notification of actions taken
35 and documents prepared(~~(-)~~);

36 (f) Definition of terms relevant to the implementation of this
37 chapter, including the establishment of a list of elements of the
38 environment. The rules shall specify that analysis of environmental

1 considerations under RCW 43.21C.030(2) may be required only for those
2 subjects listed as elements of the environment (or portions thereof).
3 The list of elements of the environment shall consist of the "natural"
4 and "built" environment. The elements of the built environment shall
5 consist of public services and utilities (such as water, sewer,
6 schools, fire and police protection), transportation, environmental
7 health (such as explosive materials and toxic waste), and land and
8 shoreline use (including housing, and a description of the
9 relationships with land use and shoreline plans and designations,
10 including population)((-));

11 (g) Rules for determining the obligations and powers under this
12 chapter of two or more branches of government involved in the same
13 project significantly affecting the quality of the environment. These
14 rules shall include criteria and procedures for designating a lead
15 agency other than the agency that is the primary sponsor or proponent
16 of a project or proposal, as required by section 3 of this act, from
17 the other agencies with jurisdiction by law or special expertise with
18 respect to any environmental impact involved;

19 (h) Methods to assure adequate public awareness of the preparation
20 and issuance of ((detailed)) environmental impact statements required
21 by RCW 43.21C.030(2)(c)((-));

22 (i) ((To prepare)) Rules for projects setting forth the time limits
23 within which the governmental entity responsible for the action shall
24 comply with the provisions of this chapter((-));

25 (j) Rules for utilization of ((a detailed)) an environmental impact
26 statement for more than one action and rules improving environmental
27 analysis of nonproject proposals and encouraging better interagency
28 coordination and integration between this chapter and other
29 environmental laws((-));

30 (k) Rules relating to actions ((which)) that shall be exempt from
31 the provisions of this chapter in situations of emergency((-));

32 (l) Rules relating to the use of environmental documents in
33 planning and decision making and the implementation of the substantive
34 policies and requirements of this chapter, including procedures for
35 appeals under this chapter((-)); and

36 (m) Rules and procedures that provide for the integration of
37 environmental review with project review as provided in RCW 43.21C.240.
38 The rules and procedures shall be jointly developed with the department

1 of community, trade, and economic development and shall be applicable
2 to the preparation of environmental documents for actions in counties,
3 cities, and towns planning under RCW 36.70A.040. The rules and
4 procedures shall also include procedures and criteria to analyze
5 planned actions under RCW 43.21C.031(2) and revisions to the rules
6 adopted under this section to ensure that they are compatible with the
7 requirements and authorizations of chapter 347, Laws of 1995, as
8 amended by chapter 429, Laws of 1997. Ordinances or procedures adopted
9 by a county, city, or town to implement the provisions of chapter 347,
10 Laws of 1995 prior to the effective date of rules adopted under this
11 subsection (1)(m) shall continue to be effective until the adoption of
12 any new or revised ordinances or procedures that may be required. If
13 any revisions are required as a result of rules adopted under this
14 subsection (1)(m), those revisions shall be made within the time limits
15 specified in RCW 43.21C.120.

16 (2) In exercising its powers, functions, and duties under this
17 section, the department may:

18 (a) Consult with the state agencies and with representatives of
19 science, industry, agriculture, labor, conservation organizations,
20 state and local governments, and other groups, as it deems advisable;
21 and

22 (b) Utilize, to the fullest extent possible, the services,
23 facilities, and information (including statistical information) of
24 public and private agencies, organizations, and individuals, in order
25 to avoid duplication of effort and expense, overlap, or conflict with
26 similar activities authorized by law and performed by established
27 agencies.

28 (3) Rules adopted pursuant to this section shall be subject to the
29 review procedures of chapter 34.05 RCW.

30 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.21C RCW
31 to read as follows:

32 An agency that is the primary sponsor or proponent of a project or
33 proposal subject to review under this chapter shall not serve as the
34 lead agency responsible for complying with the requirements of this
35 chapter. For such a public project or proposal, the lead agency shall
36 be determined by an agreement developed according to the rules adopted

1 according to RCW 43.21C.110(1)(g) among all agencies with jurisdiction
2 by law and agencies with special expertise with respect to any
3 environmental impact involved.

4 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.21C RCW
5 to read as follows:

6 For purposes of this chapter:

7 (1) "Agency with jurisdiction by law" means an agency with
8 authority to approve, veto, or finance all or part of a project or
9 proposal; and

10 (2) "Agency with special expertise" means an agency with special
11 expertise on the environmental impacts involved in a proposal or
12 alternative significantly affecting the environment.

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