
SENATE BILL 5432

State of Washington

59th Legislature

2005 Regular Session

By Senators Spanel, Swecker, Poulsen, Doumit, Regala, Rockefeller, Pridemore, Haugen, Kohl-Welles, Fraser, Jacobsen, Shin and Kline

Read first time 01/25/2005. Referred to Committee on Water, Energy & Environment.

1 AN ACT Relating to the oil spill monitoring and oversight council;
2 amending RCW 90.56.005; and adding new sections to chapter 90.56 RCW.

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

4 **Sec. 1.** RCW 90.56.005 and 2004 c 226 s 2 are each amended to read
5 as follows:

6 (1) The legislature declares that (~~the increasing reliance on~~)
7 water borne transportation as a source of supply for oil and hazardous
8 substances poses special concern for the state of Washington. Each
9 year billions of gallons of crude oil and refined petroleum products
10 are transported as cargo and fuel by vessel on the navigable waters of
11 the state. These shipments are expected to increase in the coming
12 years. Vessels transporting oil into Washington travel on some of the
13 most (~~unique~~) valuable and special marine environments in the United
14 States. These marine environments are a source of natural beauty,
15 recreation, and economic livelihood for many residents of this state.
16 As a result, the state has an obligation to ensure the citizens of the
17 state that the waters of the state will be protected from oil spills.

18 (2) The legislature finds that prevention is the best method to
19 protect the (~~unique~~) valuable and special marine environments in this

1 state. The technology for containing and cleaning up a spill of oil or
2 hazardous substances is (~~in the early stages of development~~) at best
3 only partially effective. Preventing spills is more protective of the
4 environment and more cost-effective when all the response and damage
5 costs associated with responding to a spill are considered. Therefore,
6 the legislature finds that the primary objective of the state is to
7 (~~adopt~~) achieve a zero spills strategy to prevent any oil or
8 hazardous substances from entering waters of the state.

9 (3) The legislature also finds that:

10 (a) Recent accidents in Washington, Alaska, southern California,
11 Texas, Pennsylvania, and other parts of the nation have shown that the
12 transportation, transfer, and storage of oil have caused significant
13 damage to the marine environment;

14 (b) Even with the best efforts, it is nearly impossible to remove
15 all oil that is spilled into the water, and average removal rates are
16 only fourteen percent;

17 (c) Washington's navigable waters are treasured environmental and
18 economic resources that the state cannot afford to place at undue risk
19 from an oil spill; (~~and~~)

20 (d) The state has a fundamental responsibility, as the trustee of
21 the state's natural resources and the protector of public health and
22 the environment to prevent the spill of oil; and

23 (e) In section 5002 of the federal oil pollution act of 1990, the
24 United States congress found that complacency on the part of industry
25 and government was one of the contributing factors to the Exxon Valdez
26 spill and, further, that one method to combat this complacency is to
27 involve local citizens in the monitoring and oversight of oil spill
28 plans. Moreover, congress concluded that, in addition to Alaska, a
29 program of citizen monitoring and oversight should be established in
30 other major crude oil terminals in the United States because recent oil
31 spills indicate that the safe transportation of oil is a national
32 problem.

33 (4) In order to establish a comprehensive prevention and response
34 program to protect Washington's waters and natural resources from
35 spills of oil, it is the purpose of this chapter:

36 (a) To establish state agency expertise in marine safety and to
37 centralize state activities in spill prevention and response
38 activities;

1 (b) To prevent spills of oil and to promote programs that reduce
2 the risk of both catastrophic and small chronic spills;

3 (c) To ensure that responsible parties are liable, and have the
4 resources and ability, to respond to spills and provide compensation
5 for all costs and damages;

6 (d) To provide for state spill response and wildlife rescue
7 planning and implementation;

8 (e) To support and complement the federal oil pollution act of 1990
9 and other federal law, especially those provisions relating to the
10 national contingency plan for cleanup of oil spills and discharges,
11 including provisions relating to the responsibilities of state agencies
12 designated as natural resource trustees. The legislature intends this
13 chapter to be interpreted and implemented in a manner consistent with
14 federal law;

15 (f) To provide broad powers of regulation to the department of
16 ecology relating to spill prevention and response;

17 (g) To provide for an independent monitoring and oversight
18 ~~((board))~~ council, consistent with federal law, to review on an ongoing
19 basis the adequacy of spill prevention and response activities in this
20 state; and

21 (h) To provide an adequate funding source for state response and
22 prevention programs.

23 NEW SECTION. Sec. 2. A new section is added to chapter 90.56 RCW
24 to read as follows:

25 (1) There is established in the office of the governor the oil
26 spill monitoring and oversight council. The primary purpose of the
27 council is to maintain the state's vigilance in the prevention of oil
28 spills, while recognizing the importance of also improving preparedness
29 and response.

30 (2) The council is composed of eleven members appointed by the
31 governor as provided in this subsection:

32 (a) The governor shall select one member each to represent the
33 interests of the following associations, based upon a list of
34 candidates if submitted by the association:

35 (i) Washington state association of counties;

36 (ii) Association of Washington cities;

37 (iii) Washington public ports association; and

1 (iv) Pacific shellfish growers association.

2 (b) The governor shall invite the Northwest Indian fisheries
3 commission to select a representative of Indian tribes to participate
4 as a member of the council.

5 (c) The governor shall select one representative to serve on the
6 council from each of the following interests:

7 (i) A representative of commercial fishing interests;

8 (ii) A representative of recreational fishing interests;

9 (iii) A representative of the tourism industry;

10 (iv) A representative of environmental organizations;

11 (v) A nongovernmental member of the Puget Sound council; and

12 (vi) A nongovernmental member of the biodiversity council, created
13 under executive order 04-02.

14 (3) Appointments to the council shall reflect a geographical
15 balance and the diversity of populations within the areas potentially
16 affected by oil spills to state waters.

17 (4) Members shall serve four-year terms, except that of the initial
18 members appointed to the council, three shall serve two-year terms,
19 three shall serve three-year terms, and five members shall serve four-
20 year terms. Vacancies shall be filled by appointment in the same
21 manner as the original appointment for the remainder of the unexpired
22 term of the position vacated.

23 (5) The council shall elect a chair from among its members in odd-
24 numbered years to serve for two years as chair. The chair shall
25 convene the council at least four times per year. At least one meeting
26 per year shall be held in a Columbia river community, an ocean coastal
27 community, and a Puget Sound community.

28 (6) Members shall not be compensated, but shall be reimbursed for
29 travel expenses as provided in RCW 43.03.050 and 43.03.060.

30 NEW SECTION. **Sec. 3.** A new section is added to chapter 90.56 RCW
31 to read as follows:

32 (1) The duties of the council include:

33 (a) Selection and hiring of professional staff and expert
34 consultants to support the work of the council;

35 (b) Consultation with government decision makers in relation to the
36 state's oil spill prevention, preparedness, and response programs,
37 analyses, rule making, and related oil spill activities;

1 (c) Providing independent advice, expertise, research, monitoring,
2 assessment, and oversight for review of and necessary improvements to
3 the state's oil spill prevention, preparedness, and response programs,
4 analyses, rule making, and other decisions, including those of the
5 Northwest area committee, as well as the adequacy of funding for these
6 programs;

7 (d) Monitoring and providing information to the public as well as
8 state and federal agencies regarding state of the art prevention,
9 preparedness, and response programs;

10 (e) Actively seeking public comments on and proposals for specific
11 measures to improve the state's oil spill prevention, preparedness, and
12 response program, including measures to improve the effectiveness of
13 the Northwest area committee;

14 (f) Creating additional committees of the council as necessary to
15 carry out the functions in this subsection (1), including scientific
16 and technical committees;

17 (g) Promoting opportunities for the public to become involved in
18 spill response activities and provide assistance to community groups
19 with an interest in oil spill prevention and response;

20 (h) Preparing reports to embody the council's analyses and
21 recommendations; and

22 (i) Any other activities necessary to maintain the state's
23 vigilance in preventing oil spills.

24 (2) By December 1st of each year, the council shall make
25 recommendations for the continuing improvement of the state's oil spill
26 prevention, preparedness, and response through a report to the governor
27 and the appropriate committees of the senate and house of
28 representatives.

29 (3) The director shall prepare a response to the annual report
30 within ninety days of its submittal to the governor and the
31 legislature, including a description of recommended improvements the
32 department will adopt and the reasons established for rejecting the
33 adoption of or for significantly modifying any recommended improvement.

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