

SSB 6231 - H AMD 1516

By Representative Upthegrove

ADOPTED AS AMENDED 03/06/2008

1 On page 3, after line 3, insert the following:

2 "(5) The marine protected areas work group established under this
3 section shall coordinate with the marine managed areas work group
4 established in section 5 of this act. The marine protected areas work
5 group is to focus primarily on marine protected areas located in
6 coastal waters as defined in RCW 43.143.020, while the marine managed
7 areas work group established in section 5 of this act is to focus
8 primarily on the Puget Sound. The two work groups may share resources
9 and expertise when appropriate."

10 On page 3, after line 3, strike all of section 3 and insert the
11 following:

12 NEW SECTION. **Sec. 3.** (1) The legislature finds that many state
13 agencies and local governments administer marine protected areas,
14 preserves, conservation areas, and other similar geographically based
15 area designations that are a valuable means to protect and enhance
16 Puget Sound's marine resources. The legislature further finds that
17 climate change impacts and increased population and development in the
18 Puget Sound basin will place further stresses upon sustaining the
19 biological diversity and ecosystem health of Puget Sound.

20 (2) It is the intent of the legislature that state and local
21 actions intended to protect, conserve, and manage marine life and
22 resources be conducted in a coordinated manner, use the best available
23 science, consider the projected impacts on Puget Sound's marine areas
24 from climate change, and contribute to the recovery of the Puget
25 Sound's environmental health by 2020.

26 (3) It is the purpose of this act to:

27 (a) Create a strategic network of marine managed areas that
28 contribute to conserving the biological diversity and ecosystem health

1 of Puget Sound and that maximizes the effectiveness of the role of
2 marine managed areas in achieving the recovery of Puget Sound's health
3 by 2020;

4 (b) Strengthen the coordination of marine managed areas among
5 multiple state agencies and local governments and align these efforts
6 with the work of the Puget Sound partnership to recover the Puget
7 Sound's health by 2020;

8 (c) Provide for management and designation of marine managed areas
9 programs on an ecosystem basis and incorporate the best available
10 scientific information into these programs;

11 (d) Adopt a plan that builds a comprehensive system of marine
12 managed areas in Puget Sound, adopts goals and benchmarks for
13 maintaining the diversity of marine life and resources in Puget Sound,
14 and is based upon anticipated threats and stressors such as climate
15 change impacts;

16 (e) Recognize the interrelationship of the marine ecosystem
17 throughout the Pacific Northwest, and the multiple entities, including
18 local, state, provincial, and federal governments, as well as tribal
19 governments and first nations, that are involved in managing marine
20 managed areas; and

21 (f) Adopt codified criteria and procedures applicable to the
22 aquatic reserve program on state-owned aquatic lands.

23 **Sec. 4.** RCW 90.71.010 and 2007 c 341 s 2 are each amended to read
24 as follows:

25 (~~Unless the context clearly requires otherwise,~~) The definitions
26 in this section apply throughout this chapter unless the context
27 clearly requires otherwise.

28 (1) "Action agenda" means the comprehensive schedule of projects,
29 programs, and other activities designed to achieve a healthy Puget
30 Sound ecosystem that is authorized and further described in RCW
31 90.71.300 and 90.71.310.

32 (2) "Action area" means the geographic areas delineated as provided
33 in RCW 90.71.260.

34 (3) "Benchmarks" means measurable interim milestones or
35 achievements established to demonstrate progress towards a goal,
36 objective, or outcome.

37 (4) "Board" means the ecosystem coordination board.

1 (5) "Council" means the leadership council.

2 (6) "Environmental indicator" means a physical, biological, or
3 chemical measurement, statistic, or value that provides a proximate
4 gauge, or evidence of, the state or condition of Puget Sound.

5 (7) "Implementation strategies" means the strategies incorporated
6 on a biennial basis in the action agenda developed under RCW 90.71.310.

7 (8) "Marine managed area" means a named, discrete geographic marine
8 or estuarine area designated by statute, ordinance, resolution, or
9 administrative action, whose designation is intended to protect,
10 conserve, or otherwise manage the marine life and resources within the
11 area.

12 (9) "Nearshore" means the area beginning at the crest of coastal
13 bluffs and extending seaward through the marine photics zone, and to
14 the head of tide in coastal rivers and streams. "Nearshore" also means
15 both shoreline and estuaries.

16 (~~(9)~~) (10) "Panel" means the Puget Sound science panel.

17 (~~(10)~~) (11) "Partnership" means the Puget Sound partnership.

18 (~~(11)~~) (12) "Plan" means the Puget Sound marine managed areas
19 plan developed under section 5 of this act.

20 (13) "Puget Sound" means Puget Sound and related inland marine
21 waters, including all salt waters of the state of Washington inside the
22 international boundary line between Washington and British Columbia,
23 and lying east of the junction of the Pacific Ocean and the Strait of
24 Juan de Fuca, and the rivers and streams draining to Puget Sound as
25 mapped by water resource inventory areas 1 through 19 in WAC
26 173-500-040 as it exists on July 1, 2007.

27 (~~(12)~~) (14) "Puget Sound partner" means an entity that has been
28 recognized by the partnership, as provided in RCW 90.71.340, as having
29 consistently achieved outstanding progress in implementing the 2020
30 action agenda.

31 (~~(13)~~) (15) "Watershed groups" means all groups sponsoring or
32 administering watershed programs, including but not limited to local
33 governments, private sector entities, watershed planning units,
34 watershed councils, shellfish protection areas, regional fishery
35 enhancement groups, marine (~~resource[s]~~) resources committees
36 including those working with the Northwest straits commission,
37 nearshore groups, and watershed lead entities.

1 (~~(14)~~) (16) "Watershed programs" means and includes all
2 watershed-level plans, programs, projects, and activities that relate
3 to or may contribute to the protection or restoration of Puget Sound
4 waters. Such programs include jurisdiction-wide programs regardless of
5 whether more than one watershed is addressed.

6 NEW SECTION. **Sec. 5.** A new section is added to chapter 90.71 RCW
7 to read as follows:

8 (1) The partnership shall prepare a Puget Sound marine managed
9 areas plan to coordinate and strengthen all of the marine managed areas
10 programs managed by state agencies and local governments.

11 (2) The chair of the council shall designate a work group on marine
12 managed areas to prepare the plan. The work group shall include one or
13 more members of the Puget Sound science panel, one of whom must chair
14 the work group. The work group must include, but not be limited to,
15 state agencies and local governments with regulatory jurisdiction over
16 or that manage marine managed areas including, but not limited to, the
17 department of natural resources, the department of fish and wildlife,
18 the parks and recreation commission, and the department of ecology.
19 The work group shall also include the state biodiversity council,
20 created by executive order 04-02, or the biodiversity council's
21 successor entity. The chair of the council shall also invite
22 representatives of tribal governments, federal agencies, cities,
23 counties, and nongovernmental organizations that have designated or
24 have significant interests in the management of Puget Sound marine
25 managed areas. The chair of the council may also invite
26 representatives from other states and provinces and first nation and
27 tribal governments with interests in marine managed areas in the
28 Pacific Northwest to participate on the work group as observers.

29 (3) The plan must include, but not be limited to:

30 (a) Guidelines for identifying key species of concern, threats to
31 these species, and threshold levels of protected habitat needed to
32 recover these species and Puget Sound as a whole to health by 2020;

33 (b) Guidelines for incorporating the best available scientific
34 information when designating and managing marine managed areas;

35 (c) Guidelines for managing areas on an ecosystem basis and for
36 coordinating multiple programs and areas within the same
37 biogeographical regions to achieve ecosystem-based management;

1 (d) Benchmarks to measure progress toward the recovery of species
2 and protected habitat;

3 (e) Recommendations for adequate levels of funding for the
4 designation, long-term management, and monitoring of the marine managed
5 areas in the network;

6 (f) Strategies to address the projected impacts to marine managed
7 areas from population growth, existing and proposed upland and aquatic
8 lands development, and storm water discharges to Puget Sound;

9 (g) Strategies to prepare for and manage the impacts of climate
10 change, including impacts due to sea level changes, salinity changes,
11 water temperature, increased acidification, and changes in frequency
12 and intensity of precipitation events affecting storm water discharges
13 to marine waters;

14 (h) An adaptive management component in which new information on
15 the progress of implementing management goals for the individual marine
16 managed areas and overall goals for all such areas, the contribution
17 these areas are making toward the goals of recovering the health of
18 Puget Sound by 2020, and climate change impacts may be considered and
19 integrated into the designation and management of marine managed areas;
20 and

21 (i) Methodologies for synthesizing monitoring results with
22 programmatic goals to inform decision making on subsequent designation
23 and marine managed areas strategies and any necessary changes in
24 implementation strategies to increase the effectiveness of the marine
25 managed areas program in achieving the goal of recovering the Puget
26 Sound's health by 2020.

27 (4) The plan must also include comprehensive objectives for
28 coordinating existing marine managed areas and designating additional
29 areas to achieve a network of marine managed areas contributing to
30 long-term conservation of important biota and marine ecosystems and
31 recovery of Puget Sound by 2020. In developing the objectives the work
32 group shall rely primarily upon existing plans and objectives relating
33 to conservation of marine life in Puget Sound, and the program plans
34 prepared by state agencies and local governments administering marine
35 managed areas programs. The plan must also consider activities and
36 uses within or adjacent to marine managed areas that are allowed under
37 existing leases of state-owned aquatic lands issued under chapter
38 79.105 RCW.

1 (5) The plan must be completed by July 1, 2010, and submitted to
2 the council for its review and approval. The plan must be incorporated
3 into the Puget Sound action agenda adopted under RCW 90.71.310. The
4 council shall provide for public review and comment on the plan in a
5 manner comparable to the other provisions of the Puget Sound action
6 agenda. The council may, with the assistance of the work group, amend
7 the plan from time to time using public review and comment procedures
8 comparable to those that apply when other elements of the Puget Sound
9 action agenda are revised.

10 (6) The marine managed areas work group established under this
11 section shall coordinate with the marine protected areas work group
12 established in section 2 of this act. The marine managed areas work
13 group is to focus primarily on the Puget Sound, while the marine
14 protected areas work group established in section 2 of this act is to
15 focus primarily on coastal waters as defined in RCW 43.143.020. The
16 two work groups may share resources and expertise when appropriate.

17 **Sec. 6.** RCW 79.105.210 and 2005 c 155 s 143 are each amended to
18 read as follows:

19 (1) The management of state-owned aquatic lands shall preserve and
20 enhance water-dependent uses. Water-dependent uses shall be favored
21 over other uses in state-owned aquatic land planning and in resolving
22 conflicts between competing lease applications. In cases of conflict
23 between water-dependent uses, priority shall be given to uses which
24 enhance renewable resources, water-borne commerce, and the navigational
25 and biological capacity of the waters, and to statewide interests as
26 distinguished from local interests.

27 (2) Nonwater-dependent use of state-owned aquatic lands is a low-
28 priority use providing minimal public benefits and shall not be
29 permitted to expand or be established in new areas except in
30 exceptional circumstances where it is compatible with water-dependent
31 uses occurring in or planned for the area.

32 (3) The department shall consider the natural values of state-owned
33 aquatic lands as wildlife habitat, natural area preserve,
34 representative ecosystem, or spawning area prior to issuing any initial
35 lease or authorizing any change in use. The department may withhold
36 from leasing lands which it finds to have significant natural values,
37 or may provide within any lease for the protection of such values.

1 When withdrawing lands from leasing for the purposes of managing an
2 aquatic reserve, the department shall be guided by the procedures and
3 criteria of section 7 of this act.

4 (4) The power to lease state-owned aquatic lands is vested in the
5 department, which has the authority to make leases upon terms,
6 conditions, and length of time in conformance with the state
7 Constitution and chapters 79.105 through 79.140 RCW.

8 (5) State-owned aquatic lands shall not be leased to persons or
9 organizations which discriminate on the basis of race, color, creed,
10 religion, sex, age, or physical or mental handicap.

11 NEW SECTION. Sec. 7. A new section is added to chapter 79.105 RCW
12 under a new subchapter heading of "aquatic reserve system" to read as
13 follows:

14 (1) The aquatic reserve system is established. The aquatic reserve
15 system is comprised of those areas of state-owned aquatic lands
16 designated by the department prior to the effective date of this
17 section and any areas added to the system by order of the commissioner
18 thereafter.

19 (2) State-owned aquatic lands that have one or more of the
20 following characteristics may be included by order of the commissioner
21 in the system as an aquatic reserve:

22 (a) The lands have been identified as having high priority for
23 conservation, natural systems, wildlife, or low-impact public use
24 values;

25 (b) The lands have flora, fauna, geological, recreational,
26 archaeological, cultural, scenic, or similar features of critical
27 importance and have retained to some degree or reestablished its
28 natural character;

29 (c) The lands provide significant examples of native ecological
30 communities;

31 (d) The lands have significant sites or features threatened with
32 conversion to incompatible uses; and

33 (e) The lands have been identified by the Puget Sound science panel
34 created in RCW 90.71.270 as critical to achieving recovery of Puget
35 Sound by 2020.

36 (3)(a) The commissioner shall adopt procedures for submission of

1 reserve nominations and for public participation in the review of
2 proposed reserves.

3 (b) If, consistent with the best available scientific information,
4 a reserve no longer meets the goals and objectives for which it was
5 designated, and adaptive management has not been successful to meet the
6 goals and objectives, the commissioner may by order modify the reserve
7 boundaries or remove the area from reserve status.

8 (c) The commissioner shall provide public participation procedures
9 for the proposals.

10 (4) In the designation and management of reserves within Puget
11 Sound, as geographically defined in RCW 90.71.010, the commissioner
12 shall be guided by the marine managed areas plan adopted under section
13 5 of this act. Within twenty-four months of the adoption of the marine
14 managed areas plan under section 5 of this act, the department shall
15 complete a review of existing management plans and pending reserve
16 nominations for consistency with the guidelines and recommendations in
17 the marine managed areas plan. The commissioner shall accord
18 substantial weight to any recommendations provided by the Puget Sound
19 partnership regarding the designation and management of reserves within
20 Puget Sound.

21 (5) Where the commissioner determines that management of the taking
22 of fish, shellfish, or wildlife within or adjacent to the reserve would
23 enhance the objectives for which the reserve has been created, the
24 commissioner shall request that the fish and wildlife commission act
25 pursuant to section 8 of this act to adopt supporting rules.

26 (6) The aquatic reserve system must be coordinated with other
27 marine managed areas, federally recognized marine protected areas, and
28 related regulatory programs. The department shall:

29 (a) Cooperate with other state agencies and local governments to
30 manage state-owned aquatic lands consistently with the management of
31 uses and activities in the same geographic areas by state parks, the
32 department of fish and wildlife, the department of ecology, and other
33 state agencies; and

34 (b) Provide recommendations to local governments in updating their
35 shoreline master programs and in sponsoring local marine park reserves
36 or voluntary stewardship areas to seek consistent planning and
37 management activities in areas adjacent to designated reserves.

1 (7)(a) State agencies with authority over construction activities
2 or water discharges in state waters or that otherwise implement
3 programs that affect a designated aquatic reserve shall give special
4 consideration to increasing protection and reducing and preventing
5 pollution of these areas, consistent with the management objectives of
6 the reserve.

7 (b) The department should participate in any public processes
8 regarding water discharge or construction permitting affecting aquatic
9 reserves to aid other agencies in their understanding of the provisions
10 of this subsection.

11 NEW SECTION. **Sec. 8.** A new section is added to chapter 77.12 RCW
12 to read as follows:

13 (1) The commission may adopt rules governing the taking of fish,
14 shellfish, or wildlife within or adjacent to an aquatic reserve
15 designated by the department of natural resources under section 7 of
16 this act, or other marine managed areas, as that term is defined in RCW
17 90.71.010. The commission shall give consideration within sixty days
18 to any rule changes requested by the commissioner of public lands to
19 support the purposes of an aquatic reserve.

20 (2) This section is in addition to and does not limit the
21 commission's authority to establish rules governing the taking of fish,
22 shellfish, or wildlife under any other authority.

23 NEW SECTION. **Sec. 9.** The Puget Sound partnership shall provide
24 the plan required by section 5 of this act to the appropriate
25 committees of the legislature by December 1, 2010, together with its
26 recommendations for further policy legislation and budget
27 recommendations to enhance Puget Sound marine managed areas programs.

28 **Sec. 10.** RCW 90.71.300 and 2007 c 341 s 12 are each amended to
29 read as follows:

30 (1) The action agenda shall consist of the goals and objectives in
31 this section, implementation strategies to meet measurable outcomes,
32 benchmarks, (~~and~~) identification of responsible entities, and the
33 marine managed areas plan adopted under section 5 of this act. By
34 2020, the action agenda shall strive to achieve the following goals:

1 (a) A healthy human population supported by a healthy Puget Sound
2 that is not threatened by changes in the ecosystem;

3 (b) A quality of human life that is sustained by a functioning
4 Puget Sound ecosystem;

5 (c) Healthy and sustaining populations of native species in Puget
6 Sound, including a robust food web;

7 (d) A healthy Puget Sound where freshwater, estuary, nearshore,
8 marine, and upland habitats are protected, restored, and sustained;

9 (e) An ecosystem that is supported by ground water levels as well
10 as river and stream flow levels sufficient to sustain people, fish, and
11 wildlife, and the natural functions of the environment;

12 (f) Fresh and marine waters and sediments of a sufficient quality
13 so that the waters in the region are safe for drinking, swimming,
14 shellfish harvest and consumption, and other human uses and enjoyment,
15 and are not harmful to the native marine mammals, fish, birds, and
16 shellfish of the region.

17 (2) The action agenda shall be developed and implemented to achieve
18 the following objectives:

19 (a) Protect existing habitat and prevent further losses;

20 (b) Restore habitat functions and values;

21 (c) Significantly reduce toxics entering Puget Sound fresh and
22 marine waters;

23 (d) Significantly reduce nutrients and pathogens entering Puget
24 Sound fresh and marine waters;

25 (e) Improve water quality and habitat by managing storm water
26 runoff;

27 (f) Provide water for people, fish and wildlife, and the
28 environment;

29 (g) Protect ecosystem biodiversity and recover imperiled species;
30 and

31 (h) Build and sustain the capacity for action.

32 **Sec. 11.** RCW 36.125.030 and 2007 c 344 s 4 are each amended to
33 read as follows:

34 (1) The Puget Sound (~~(action team, or its successor organization,~~)
35 partnership shall serve as the regional coordinating entity for marine
36 resources committees created in the southern Puget Sound and the

1 department of fish and wildlife shall serve as the regional
2 coordinating entity for marine resources committees created for the
3 outer coast.

4 (2) The regional coordinating entity shall serve as a resource to,
5 at a minimum:

6 (a) Coordinate and pool grant applications and other funding
7 requests for marine resources committees;

8 (b) Coordinate communications and information among marine
9 resources committees;

10 (c) Assist marine resources committees to measure themselves
11 against regional performance benchmarks;

12 (d) Assist marine resources committees with coordinating local
13 projects to complement regional priorities;

14 (e) Assist marine resources committees to interact with and
15 complement other marine resources committees, and other similar groups,
16 constituted under a different authority; and

17 (f) Coordinate with the Northwest Straits commission on issues
18 common to marine resources committees statewide."

19 Correct the title.

EFFECT: Requires the Puget Sound Partnership to incorporate into the Puget Sound Action Agenda a plan to coordinate and strengthen the various marine managed areas maintained by state and local governments, provides the Department of Natural Resources with specific authority and guidance over the creation and management of aquatic reserves on state-owned aquatic lands, and directs permitting and rule-making decisions by the Department of Ecology and the Department of Fish and Wildlife over areas designated as a marine managed area.

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