

HOUSE BILL REPORT

HB 1374

As Reported by House Committee On:

Puget Sound, Select
Appropriations

Title: An act relating to the Puget Sound partnership.

Brief Description: Creating the Puget Sound partnership.

Sponsors: Representatives Upthegrove, Sump, Hunt, Appleton, Chase, Kenney, Simpson, Roberts, Dickerson, Conway and Springer; by request of Governor Gregoire.

Brief History:

Committee Activity:

Select Committee on Puget Sound: 1/23/07, 2/13/07 [DPS];
Appropriations: 2/27/07, 3/1/07 [DP2S(w/o sub PUGT)].

Brief Summary of Second Substitute Bill

- Creates the Puget Sound Partnership, a new state agency, to clean up and restore the environmental health of Puget Sound by the year 2020.
- Creates an action agenda to achieve clean-up and restoration goals.
- Creates four organizational entities within the Puget Sound Partnership.

HOUSE SELECT COMMITTEE ON PUGET SOUND

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Upthegrove, Chair; Eickmeyer, Vice Chair; Rolfes, Vice Chair; Sump, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; O'Brien, Pearson and Springer.

Staff: Karen Rogers (786-7388).

Background:

Description of Puget Sound

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Puget Sound is a 2,800-square-mile inland water connected to the Pacific Ocean via the Strait of Juan de Fuca in the Pacific Northwest of the United States. It extends from Admiralty Inlet in the north, to Olympia, Washington, in the south.

Puget Sound waters include open marine waters; inland marine waters; glacially scoured fjords such as Hood Canal; numerous river and stream channels; and 2,500 miles of shoreline. Its basin, the land area whose freshwaters drain into the sound, encompasses water resource inventory areas (WRIA) 1 through 19, and extends into 12 counties: Clallam; Island; Jefferson; King; Kitsap; Mason; Pierce; San Juan; Skagit; Snohomish; Thurston; and Whatcom.

Environmental Entities

Dozens of state agencies, federal agencies, local governments, not-for-profits, and other environmental organizations address the environmental health of Puget Sound. Two state agencies are of particular note. One is the Puget Sound Action Team (PSAT), and the other is the Shared Strategy Salmon Recovery Council (Shared Strategy).

The PSAT was created in 1996 as the lead state agency to restore and protect the biological health and diversity of Puget Sound. A few of its primary duties include preparing a Puget Sound work plan and budget; coordinating monitoring and research programs; and contracting works to address the environmental health of Puget Sound. It is led by the PSAT chair, and consists of the directors of several major state agencies, including Ecology; Agriculture; Natural Resources; and Fish and Wildlife.

Shared Strategy acts as the lead, salmon-recovery regional entity. As such, it may plan, coordinate, and monitor the implementation of a regional salmon-recovery plan for Puget Sound.

Summary of Substitute Bill:

A new state agency, the Puget Sound Partnership (Partnership), is created with the task of cleaning up and restoring Puget Sound by the year 2020. The Partnership has several major components:

- the Action Agenda (Agenda), which states the goals and responsibilities of the Partnership;
- the Leadership Council, which leads the Partnership;
- the executive director, which administers the agency;
- the Coordination Board, consisting of stakeholders, which advises the Leadership Council and the executive director; and
- the Puget Sound Science Advisory Council, consisting of technical and scientific representatives, which advises the Leadership Council and the executive director.

Action Agenda

The Agenda is to be developed by the Partnership, and includes actions such as tasking the Leadership Council to set the Agenda goals, and identify actions, strategies, and entities responsible for completing said actions. The Agenda requires that the Partnership rely upon a sound science foundation; that measurable and quantifiable outcomes and benchmarks are set; that water-quantity, watershed, and marine-resource plan provisions are integrated where appropriate; that strategies and actions are prioritized; and that deadlines for actions are extended beyond the year 2020 as necessary. The Agenda also tasks the Leadership Council to evaluate the effectiveness and efficiency of the overall management system.

The Agenda requires state agencies implementing elements of the Agenda to provide the Partnership with their "estimates" for the ensuing biennium by June 1 of each even-numbered year, and work with the Partnership to develop biennial budget requests.

The Agenda requires the Leadership Council to submit its funding request to the Governor and to the Legislature by September 1, 2008. The funding recommendations shall identify funding needs by plan element, and identify the time periods in which specific funding is needed. The Agenda also requires the Leadership Council to develop a financing strategy to secure stable, long-term funding, including proposals for new sources of funding.

The Agenda stipulates that the Leadership Council shall adopt the Agenda by September 1, 2008, and revise it every six years. Until the Agenda is adopted, the existing *Puget Sound Management Plan* and the *2007-2009 Puget Sound Biennial Report*, both existing PSAT documents, shall remain in effect. The *Puget Sound Management Plan* shall continue to serve as the comprehensive conservation and management plan for the purposes of the Federal Clean Water Act until the Environmental Protection Agency approves the Agenda as the new management plan.

Leadership Council

The Leadership Council consists of seven voting members appointed by the Governor with the advice and consent of the Senate. Appointment terms for members are for four years, except for the initial appointments, which are staggered. The Leadership Council also has two non-voting members: the Commissioner of Public Lands, and the chair of the Puget Sound Science Advisory Council.

The Leadership Council has the authority and duty to provide all leadership, have overall responsibility, and make final decisions for the Partnership. The Leadership Council also has the authority and duty to develop, approve, review, and oversee implementation of the Agenda. The Leadership Council manages the Partnership funds. It also has the authority and duty to allocate funds; enter into, amend, and terminate contracts with individuals, corporations, or research institutions; make grants to governmental and non-governmental entities; expend gifts, grants and endowments; and receive and expend funding from public agencies. However, the authority to administer the Partnership programs and budgets resides with the executive director.

The Leadership Council has many other authorities and duties, including the following:

- adopting procedural rules;

- determining compliance with the Agenda and with achievement of the results expected;
- appointing members of the Puget Sound Science Advisory Committee, and the majority of the members of the Coordination Board; and
- creating entities to assist the Leadership Council.

The Leadership Council and the Partnership replace and assume the authorities of the Shared Strategy and the PSAT, respectively. The Leadership Council shall become the new regional organization for Puget Sound salmon recovery; and the Partnership shall inherit all of the PSAT's duties and functions, and all but one of the PSAT's powers, upon the PSAT's abolishment. The power not transferred to the Partnership is the PSAT's authority over the Shellfish On-Site Sewage Grant Program, which is transferred to the Department of Health.

The Leadership Council's duties include: (1) maintaining complete and consolidated financial information; (2) ensuring that all received and expended funds are tracked and accounted for; (3) developing a process to review and address citizen concerns with the Agenda; (4) conforming to the 1989 Centennial Accord procedures and standards when working with federally recognized Indian tribes; (5) participating in public-private partnerships; (6) developing and revising the Agenda; (7) submitting annual progress reports to the Governor and Legislature; and (8) submitting funding recommendations to the Senate and House.

Executive Director

The executive director (Director) administers the Partnership. The Director is accountable to the Governor and to the Leadership Council. The Governor appoints the Director in consultation with the Leadership Council, and is instructed to consider the Leadership Council's recommendations when appointing the Director.

The Director administers operations, staff, the Partnership programs, and the Partnership budget. The Director prepares and updates the Agenda in accordance with the Leadership Council's goals and guidelines.

Coordination Board

The Coordination Board is the stakeholder entity of the Partnership. The Coordination Board is appointed by October 1, 2007, and has 21 voting members and 10 non-voting members. The voting members include representatives from the geographic area of each of the 14 salmon recovery areas, the environmental and business communities, two at-large members, and tribal government. The Coordination Board serves as the communication and implementation link between the Partnership, the Director, and local entities. It provides input to the Leadership Council and to the Director regarding development of the Agenda, and advises them on how to incorporate local plans and projects into the Agenda. The Coordination Board also assists cities, counties, ports, tribes, watershed groups, and other governmental and private organizations; disseminates regional and basin-wide plans devised or approved by the Partnership to these groups; and may work with local entities to integrate local plans into regional-scale plans.

Puget Sound Science Advisory Committee

The Puget Sound Science Advisory Committee (Science Advisory Committee) advises and assists the Leadership Council and the Director by helping to develop and update the Agenda, by recommending updates to the Agenda, and by helping to develop a strategic science program. The Science Advisory Committee further assists the Director to develop a biennial science work plan and the Puget Sound science update. The Science Advisory Committee may collaborate and consult with other scientists, and may consult with the Washington Academy of Sciences to secure independent review.

The Science Advisory Committee shall be appointed by January 31, 2008, and shall consist of nine members representative of the technical-experience and scientific disciplines. Members of the Science Advisory Committee are nominated by public and private entities, and by the general public if the public so chooses, and appointed by the Leadership Council after a vetting process.

Local Government Partners

Local governmental entities that operate in conformance with the Agenda are considered Puget Sound Partners. These local governments are entitled to grant preferences from the Public Works Trust Fund and from the Water Quality Account. Grant preferences favoring Puget Sound Partners only apply to the Puget Sound Partner as compared to other local governments eligible for inclusion as a Puget Sound Partner. A Puget Sound Partner will not receive preference over a local government not located in the Puget Sound basin.

Funding Conditions

Any funding made directly available from the Partnership to another entity must be prioritized according to the Agenda, and conditioned with interagency agreements to ensure that the funding is used consistent with the Agenda. If funding is provided to an entity that is not required to disclose information under the state's Public Disclosure Act, then that entity is required to contractually agree to disclose information as a prerequisite to receiving the funds.

Funding made available directly to an agency other than the Partnership may be conditioned in an interagency agreement only if the funding was identified in a budget proviso and recommended by the Partnership in the budgeting process. The Partnership may only play an oversight role for other funds provided to state agencies. This oversight role includes the duty to report to the Governor and to the Legislature as to whether the funds were used consistent with the Agenda.

Reports, Plans, Programs and Partnership Reviews

Strategic Science Program. The director shall develop a Strategic Science Program (Program), with assistance from the Science Advisory Committee. The Program will include assessment and monitoring, and additional provisions of the research and modeling to be incorporated as an element of the Agenda. The monitoring program will include baselines, protocols, guidelines, and quantifiable performance measures.

Biennial Science Work Plan. The Director shall develop a biennial science work plan, with assistance from the Science Advisory Committee. The plan will consist of the following:

- recommendations from scientific and technical reports;
- description of science-related activities being conducted;
- identification of gaps and necessary actions to fill gaps;
- identification of specific biennial science work actions; and
- recommendations for improvement to the on-going science work.

Puget Sound Science Update. The Director develops, produces and distributes a Puget Sound science update by April 2013, and every six years thereafter. The update describes current scientific understandings, and serves as the scientific basis for the refinement of indicators of the health of Puget Sound, and for the status and trends of those indicators within the ecosystem framework.

Annual Progress Reports. The Leadership Council produces progress reports annually, which are due November 1 of each year, with the first report due on November 1, 2008. The reports include an assessment of whether entities that have received state funds for Agenda-related actions have accomplished the expected results.

Biennial Funding Reports. The Leadership Council submits its funding recommendations for the Agenda to the Governor and to the Legislature. The submittal is due by September 1, 2008, and by September 1 every even-numbered year thereafter.

Biennial Performance Reports. The Partnership submits a biennial performance report to the Governor and to the Legislature in September 2010 and in September every even-numbered year thereafter. The report details the biennial expenditure and success of the Agenda-related and Puget Sound restoration-related funds to various entities. The report includes recommended corrective measures when necessary.

Triennial Performance Audit. The Joint Legislative Audit and Review Committee (JLARC) audits the Partnership in April 2010, and in April every three years thereafter. The audit determines the extent to which Partnership-tagged funds contribute to overall restoration success, and the efficiency of the Partnership structure. Audits are submitted to the Governor and to the Legislature for review.

Six-year Overall Review. The Washington Academy of Sciences (Academy) assesses the extent to which implementation of the Agenda has made progress toward the Agenda goals. The Academy submits its findings to the Governor and to the Legislature by April 2014, and by April every six years thereafter.

Other Actions

- The Partnership becomes a state-government department.
- The Partnership becomes the regional salmon recovery organization for Puget Sound salmon species.

Substitute Bill Compared to Original Bill:

The substitute bill has differences in structural composition, functions, and accountability measures.

Structural Composition

The substitute bill has additional non-voting members on the Leadership Council, defines the number of members of the Coordination Board, creates a minimum amount of local government representation on the Coordination Board, adds legislators and state-agency representatives as non-voting members of the Coordination Board, and changes the membership of the Science Advisory Committee.

Functions

The substitute bill reclassifies the original bill's Agenda goals as "visions," explicitly states that the Partnership shall not have regulatory authority, and that state and local governments shall retain their own decision-making authority in implementing the Agenda.

Accountability Measures

The substitute bill expands the requirement that the Leadership Council apply the Washington Government Management Accountability Process to any entity with responsibilities under the Agenda; requires the JLARC to audit the Partnership once every three years; requires the Academy to conduct an assessment of basin-wide restoration progress every six years; requires the Leadership Council to submit a biennial performance report detailing Partnership and Agenda-related budget activities for biennial-budget cycles; and requires the Leadership Council to work with the Coordination Board to develop accountability measures for any entity having responsibility under the Agenda.

Appropriation: None.

Fiscal Note: Available. New fiscal note on February 15, 2007.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect on July 1, 2007.

Staff Summary of Public Testimony:

(In support) The intent of the bill is wonderful, and support for the bill's success and for the success of Puget Sound restoration is given.

The Partnership, while being a creature of the state, has a true partnership with non-state agencies. The Partnership chose not to recommend the top-down, command-and-control regulatory model. Instead, the Partnership decided to create a cooperative approach with benchmarks, time-lines, and identifications of responsibilities and conflicts. Furthermore, the Partnership wants actions based on science.

(Neutral) The Puget Sound is sick and needs to be restored. To do this, the restoration approach must be basin-wide, and dedicated funding streams must be provided. Furthermore, the Partnership must honor existing agreements, recognize the positive steps already taken by the business community, and address the effects of population growth by linking itself with the Growth Management Act.

(Opposed) The bill lacks accountability measures, and it fails to provide the Partnership with the necessary authority to uphold accountability measures should such measures exist.

The bill needs to more clearly articulate the actions necessary for restoration success, measurable goals and performance measures, and who is responsible for carrying out these goals.

A new agency need not be created. Such an agency will duplicate structures that already exist, and will overlap with those existing structures. Rather than creating a new agency, it is better to work with the structures and agencies already in place. These existing structures and agencies are capable of accomplishing Puget Sound restoration; however, to do so, they must receive better support and be held accountable. Currently, stakeholders know how to work with local government; but if another layer of government is added, it will confuse local entities. Furthermore, local entities are already subject to too many top-heavy regulations and governments. The bill creates another top-heavy agency, when more bottom-up approaches are needed.

The Implementation Advisory Board is too big, thereby making it dysfunctional and unwieldy, and the Board membership fails to include other stakeholder groups, such as the small-business community and the recreation-business community.

The bill provides inadequate opportunity for public involvement. In addition, the transfer of the PSAT employees to the new agency will cause a loss of good people, and private property owners will bear the brunt of additional requirements without monetary compensation.

Persons Testifying: (In support) Kathleen Drew, Office of the Governor; Doug Sutherland, Department of Natural Resources; Terry Wright, Northwest Indian Fisheries Commission; Jim Kramer, Shared Strategy for Puget Sound; Patrick Hogan, Office of Congressman Jay Inslee; Bill Dewey, Taylor Shellfish Farms; Sue Joerger, Puget Soundkeeper Alliance; Gary Smith, Independent Business Association; Jim King, Citizens for Parks and Recreation; Mike Racine, Washington Scuba Alliance; Bob Jacobs, former Mayor of Olympia; Jody Kennedy, Surfrider Foundation; and Christopher Stearns, Cooper Point Association.

(Neutral) Kathy Fletcher, People for Puget Sound; Eric D. Johnson, Washington Public Ports Association; Eric B. Johnson, Washington Association of Counties; David Dicks, King County; Naki Stevens, People for Puget Sound; Lonnie Johns-Brown, League of Women Voters; Nick Federici, Washington Toxics Coalition; and Heath Packard, Audubon Washington.

(Opposed) Chris McCabe, Association of Washington Businesses; John Stuhlmiller, Washington Farm Bureau; Vivian Henderson, Kitsap Alliance of Property Owners; and Andrew Cook, Building Association of Washington.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Select Committee on Puget Sound. Signed by 34 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Anderson, Buri, Chandler, Cody, Conway, Darneille, Dunn, Ericks, Fromhold, Grant, Haigh, Hinkle, Hunt, Hunter, Kagi, Kenney, Kessler, Kretz, Linville, McDermott, McDonald, McIntire, Morrell, Pettigrew, Priest, Schual-Berke, Seaquist, P. Sullivan and Walsh.

Staff: Alicia Dunkin (786-7178).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Select Committee on Puget Sound:

The Puget Sound Recovery Account is created to fund the implementation of the Partnership's Action Agenda. All reporting is consolidated into one biennial State of the Sound Report and the triennial JLARC reviews are reduced to one JLARC review in 2011, and another in 2016. The Washington Academy of Sciences is involved in the appointment of the Science Advisory Committee. Specifies that the grant preference given to Puget Sound Partners for the Public Works Trust Fund and the Centennial Clean Water Act is a preference for specific projects included in the Action Agenda, and that projects not consistent with the Action Agenda are ineligible under the grant programs. Limits the grant preference given to Puget Sound Partners in the Centennial Clean Water Act to only projects addressing storm water or wastewater. Expands the grant preference, and grant limits, given to Puget Sound Partners for the Public Works Trust Fund and the Centennial Clean Water Act to also include additional grant programs.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date of Second Substitute Bill: The bill contains an emergency clause and takes effect on July 1, 2007.

Staff Summary of Public Testimony:

(In support) Staff are working on a proposal that would consolidate reports and would include more meaningful accountability measures. This is a long-term investment in Puget Sound, would build public accountability by 2020, and is a good investment. The bill includes

important citizen civic leadership, accountability measures, incentives, and better prioritization on processes to clean up Puget Sound.

(With concerns) We support the work that has gone into the bill but the expenditure of funds given by state and local governments that relate to the Shoreline Management Act, Growth Management Act, work included in the action agenda, and work related to land use decisions, should not be limited. There will be tensions about how funds are expended and prioritized from the Public Works Trust Fund or the Centennial Account. If you limit the use of these funds then it should not be from existing levels of funding but more funding should be provided or you will split the state. The rest of the state will apply for a separate pot of money if they are not located directly on Puget Sound. For example Bremerton could apply for Puget Sound money but Enumclaw could not even though Enumclaw's storm water drains to Puget Sound. At some point we need more funding for infrastructure and now this bill adds more things that we are directed to do.

(Opposed) None.

Persons Testifying: (In support) Representative Upthegrove, prime sponsor; Clifford Traisman, Washington Conservation Voters; and Jim Kramer, Shared Strategy.

(With concerns) Dave Williams, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying: None.