

SENATE BILL REPORT

SSB 6350

As Amended by House, March 4, 2010

Title: An act relating to marine waters planning and management, including marine spatial planning.

Brief Description: Concerning marine waters management that includes marine spatial planning.

Sponsors: Senate Committee on Natural Resources, Ocean & Recreation (originally sponsored by Senators Ranker, Hargrove, Jacobsen, Rockefeller, Swecker, Marr, Fraser, Murray and Kline).

Brief History:

Committee Activity: Natural Resources, Ocean & Recreation: 1/21/10, 2/03/10 [DPS, DNP].

Passed Senate: 2/12/10, 44-2.

Passed House: 3/04/10, 64-34.

SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

Majority Report: That Substitute Senate Bill No. 6350 be substituted therefor, and the substitute bill do pass.

Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Fraser, Hargrove, Hatfield and Swecker.

Minority Report: Do not pass.

Signed by Senators Morton, Ranking Minority Member; Stevens.

Staff: Curt Gavigan (786-7437)

Background: Marine-related Authorities and Jurisdictions. Washington State has many statutory schemes related to marine issues, including the Shoreline Management Act, the Aquatic Lands Act, the Fish and Wildlife Code, and the Ocean Resource Management Act. Additionally, along with federal, tribal, and local governments, many state agencies have responsibilities and authorities relating to marine waters, including the Department of Ecology, Puget Sound Partnership, Department of Natural Resources, Department of Fish and Wildlife, and Department of Commerce.

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.

Coastal Zone Management Act. The Coastal Zone Management Program (CZMP) is a federal program administered by the National Oceanic and Atmospheric Administration (NOAA), which encourages and assists states to develop and implement CZMPs. States prepare CZMPs that describe their coastal resources and how they are managed. In general, federal or federally permitted activities that affect any land use, water use, or natural resource of a state's coastal zone must comply with the enforceable policies contained in the CZMP.

Marine Spatial Planning. A 2009 document from NOAA describes marine spatial planning as a process through which compatible human uses are objectively and transparently allocated to appropriate ocean areas to sustain critical ecological, economic, and cultural services for future generations. Often, according to NOAA, the purpose is to reduce impacts in ecologically sensitive areas or to minimize disputes among incompatible activities sharing marine locations.

Summary of Substitute Bill: Marine Interagency Team. The Governor's Office must chair an interagency team (team) composed of Natural Resources cabinet agencies with jurisdiction over marine issues, including the independent agencies. The team must invite participation from a federal agency with lead responsibility for marine spatial planning.

Assessment and Recommendations. By December 15, 2010, the team must produce an assessment containing:

- specified analysis of existing planning efforts, including a summary of the goals and objectives of relevant planning efforts; and
- recommendations on a framework for integrating marine spatial planning into management planning efforts, including the Puget Sound, Columbia River estuary, and outer coast.

Review and Coordination of Planning. Subject to funding, all state agencies with marine waters planning and management responsibilities may include marine spatial data and planning elements in existing plans and ongoing planning. The Department of Ecology must work with specified entities to compile marine spatial planning information and incorporate it into ongoing plans. The Puget Sound Partnership must integrate marine spatial information and planning provisions into its Action Agenda.

Marine Management Planning. Subject to funding, the team must coordinate development of a comprehensive marine management plan for the state's marine waters to include marine spatial planning. The team may develop the plan in geographic segments, and may incorporate elements from an existing plan. Elements of the plan include:

- an ecosystem assessment that analyzes the health and status of marine waters;
- a series of maps providing information on the marine ecosystem, human uses of marine waters, and areas with high potential for renewable energy production and low potential for conflicts with existing uses and sensitive environments;
- recommendations to the federal government for use priorities and limitations within the Exclusive Economic Zone;
- at the discretion of the Director of Fish and Wildlife, a fisheries management element. Any provision outside of the fisheries management element that impacts fishing must minimize such impacts, according substantial weight to recommendations from the Director of the Department of Fish and Wildlife; and

- a strategy for plan implementation using existing state and local authorities.

In developing the plan, the team must seek input from throughout the state, specifically from marine resources committees, tribes, and communities adjacent to marine waters.

The team has two years to complete the plan once it initiates the planning process. Upon completion, the Director of the Department of Ecology must submit the plan to the federal government for review, approval, and inclusion in the state's CZMP.

Implementation. Following adoption of the marine management plan, each state agency and local government must make decisions in a manner that ensures conformance with applicable provisions of the plan to the greatest extent possible. The Department of Ecology must lead a process that periodically reviews state and local plans for consistency with the marine management plan.

State Position on Energy Projects. In consultation with specified agencies, the Department of Commerce must adopt guidance to all state agencies establishing procedures for the coordination of the state's position on the siting and operation of renewable energy facilities in marine waters. This directive is subject to funding, and must be completed within one year after funds are secured.

Existing Uses. The bill expressly provides that it does not create authority to affect any project, use, or activity existing prior to completion of the marine management plan.

Plan Funding. Nonstate funding is a prerequisite for certain state agency actions, including development of the marine management plan. An appropriated account is created to hold grants, gifts, appropriations, and other funds provided for marine spatial planning. The account retains its interest earnings.

Terms are defined. A findings and intent section is included.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: This is a precedent setting bill, offering a first step to bring local communities, the state, and the federal government together on marine planning. The bill's flexible approach to planning by region will allow different areas to adopt different solutions based on local needs. Washington is already undertaking many marine planning efforts, and this program will allow the state to take advantage of potential federal resources. The federal government is looking at marine spatial planning, so being proactive will help the state prepare for what is coming and be sure it is included in the process. If anything, the bill should go farther and try to assert Washington's influence outside of the three mile boundary. An important component of marine spatial

planning will be the public involvement specified in the bill. The specific language protecting existing uses is also a vital component of the bill for marine related industries.

OTHER: The idea behind marine spatial planning is a good one, since doing nothing may cede control to the federal government. The bill could be strengthened by such changes as adding specific references to shellfish aquaculture as an existing use, strengthening language on the importance of shipping and maritime trade, and by addressing several issues relating to definitions and potential contradictions between provisions in the bill.

Persons Testifying: PRO: Mark Cedergreen, Westport Charterboat Assn.; Dick Sheldon, Northern Oyster Co.; Lisa Veneroso, Department of Fish and Wildlife; Shelli Hopsecger, Port of Grays Harbor; Dave Peeler, People for Puget Sound; David Dicks, Bill Ruckelshaus, Puget Sound Partnership; Ginny Broadhurst, Northwest Straits Commision; Dale Beasley, Columbia River Crab Fishermen's Assn.; Jody Kennedy, Surfrider Foundation; Bob Nichols, Governor's Office; Bridget Moran, Department of Natural Resources; Jaques White, The Nature Conservancy; Nick Demerice, Department of Commerce; Eric Johnson, Washington Assn. of Counties; Douglas Fricke, Coalition of Coastal Fisheries; Ray Toste, Washington Crab Fisher Assn; Josh Baldi, Department of Ecology.

OTHER: Jim Jesernig, Pacific Coast Shellfish Growers; Johan Hellman, Washington Public Ports Assn.; Sean Eagan, Port of Tacoma; Rick Wichman, Port of Vancouver.

House Amendment(s): Specifies that local ordinances and regulations control in the event of a conflict with the marine management plan.