

# SENATE BILL REPORT

## SB 5265

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As Passed Senate, February 28, 2011

**Title:** An act relating to flood control zone districts.

**Brief Description:** Authorizing multijurisdiction flood control zones.

**Sponsors:** Senators Swecker, Pridemore and Prentice.

**Brief History:**

**Committee Activity:** Government Operations, Tribal Relations & Elections: 2/01/11, 2/15/11 [DP].

Passed Senate: 2/28/11, 46-1.

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### SENATE COMMITTEE ON GOVERNMENT OPERATIONS, TRIBAL RELATIONS & ELECTIONS

**Majority Report:** Do pass.

Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker, Ranking Minority Member; Benton, Chase, Nelson and Roach.

**Staff:** Karen Epps (786-7424)

**Background:** Flood control zone districts (Zones) are quasi-municipal corporations created for the limited purpose of undertaking, operating, and maintaining flood control or storm water control projects. Zones are created by the legislative body of a county or by petition of at least 25 percent of the electors within a proposed Zone and are an independent taxing authority and a taxing district. Generally, the legislative body of a county serves as the Zone's supervisors and the county engineer as the administrator. In any Zone with more than 2000 residents, an election of supervisors other than the board may be held, subject to statutory requirements.

Zones possess the usual powers of a corporation for public purposes, including but not limited to, the authority to hire employees and staff, obtain services, enter into contracts, and sue and be sued. The county engineer is responsible for the administration of the Zone. The engineer may appoint deputies and engage employees, specialists, and technicians as may be required by the Zone and as are authorized by the Zone's budget. Subject to board approval, the engineer may also organize or reorganize the Zone into departments or other

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administrative relationships deemed necessary to its operation. There are currently at least nine Zones in Washington.

**Summary of Bill:** For watersheds that are in two or more counties or in the reservation of a federally-recognized Indian tribe, the boards of the counties (boards), and the tribal council of a federally-recognized Indian tribe, may establish a multijurisdiction flood control zone district (Multijurisdiction Zone). Any federally-recognized Indian tribe with reservation land located in the proposed Multijurisdiction Zone must be provided the option to participate in the Multijurisdiction Zone.

In order to establish a Multijurisdiction Zone, the boards and the tribal council must sign a formation agreement that specifies:

- the boundaries of the Multijurisdiction Zone;
- the general flood control needs or requirements within the Multijurisdiction Zone;
- the number of supervisors, including any necessary qualifications of the supervisors, whether they will be appointed or elected, and the length of terms for the supervisors;
- the manner in which actions are taken by the supervisors;
- the treasurer of a county participating in the Multijurisdiction Zone that will hold the funds of the Multijurisdiction Zone;
- the engineer of the Multijurisdiction Zone;
- the time and manner in which the supervisors adopt a budget and the policies and processes governing the adoption of rates, charges, taxes and assessments, and policies governing expenditures; and
- any other provisions deemed necessary and appropriate by the jurisdictions executing the formation agreement.

The formation agreement must be approved by resolution of the board of each of the counties participating in the Multijurisdiction Zone after holding a public hearing. Any federally-recognized Indian tribe choosing to participate in a Multijurisdiction Zone may approve its participation by action of the appropriate authority of that tribe. If the tribe chooses to participate, the tribal council of the tribe may appoint a supervisor to the Multijurisdiction Zone.

The boundaries of a Multijurisdiction Zone may overlap another zone that is not a Multijurisdiction Zone, but the combined annual ad valorem property tax levy must not exceed the amount authorized for Zones. The creation of a Multijurisdiction Zone is not subject to review by a boundary review board.

The board of each county participating in a Multijurisdiction Zone may withdraw pursuant to a resolution adopted by the board. Before withdrawing, the board must conduct a public hearing. Additionally, a federally-recognized Indian tribe may withdraw from a Multijurisdiction Zone.

If the county with the designated treasurer or engineer of the Multijurisdiction Zone withdraws from the Multijurisdiction Zone, then the county treasurer or the county engineer of the county with the largest amount of area in the Multijurisdiction Zone becomes the treasurer or engineer of the Multijurisdiction Zone until the counties in the Multijurisdiction Zone approve a new treasurer or engineer.

The supervisors or the engineer of the Multijurisdiction Zone may hire employees and staff, obtain services, and enter into contracts on behalf of the Multijurisdiction Zone. The supervisors of a Multijurisdiction Zone or the boards of jurisdictions participating in a Multijurisdiction Zone may establish a Multijurisdiction Zone advisory committee.

Zones may become a new Multijurisdiction Zone if:

- the Zones amend their existing interlocal agreement in order to join the new Multijurisdiction Zone;
- the boards of counties pass a resolution approving the conversion of the Zone into the new Multijurisdiction Zone; and
- the resolution and the interlocal agreement provide that all rights and obligations of the current Zone become the obligations of the new Multijurisdiction Zone.

Zones and Multijurisdiction Zones may lease, convey, transfer, or assign real or personal property or property rights, other assets, or franchise rights to the state of Washington or to any city, county, special purpose district, other local government entity, or federally-recognized Indian tribe. Zones may accept property rights, other assets or franchise rights from the United States, the state of Washington, or any other public or private source. Zones may contract with any federally-recognized Indian Tribe.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony:** PRO: Counties in the Chehalis Basin and the Chehalis Indian Tribe would like to form a Multijurisdiction Zone. This bill fills a number of holes that exist in existing statutes with respect to the formation of Multijurisdiction Zones. The existing statutes are specific to one county and do not provide to participation from Indian tribes. This bill provides for the formation of a multijurisdictional district and boundary review boards are established at a county level, which presents an issue with having a single county boundary review board review the boundaries of a Multijurisdiction Zone. This bill will provide the Chehalis River Basin Flood Authority with a mechanism to establish a flood district for the entire basin. This bill would allow a single organization to control and operate this district.

CON: This is not a flood control bill, but a tax bill.

OTHER: The bill as proposed eliminates the role of the boundary review board. The boundary review board provides an independent forum for citizens to air their concerns about boundary matters. Independent review by the boundary review board for Multijurisdiction Zone is particularly essential because those matters will affect multiple jurisdictions.

**Persons Testifying:** PRO: Senator Swecker, prime sponsor; Robert Johnson, Lewis County; Terry Willis, Chehalis Basin Flood Authority.

CON: John Penberth, citizen.

OTHER: John Holman, Washington State Boundary Review Board Association.