
SENATE BILL 5644

State of Washington

62nd Legislature

2011 Regular Session

By Senators Delvin, Holmquist Newbry, Hewitt, Schoesler, Carrell, Becker, Pflug, Stevens, and Honeyford

Read first time 02/03/11. Referred to Committee on Environment, Water & Energy.

1 AN ACT Relating to standards for the use of science to support
2 public policy; and adding new sections to chapter 34.05 RCW.

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

4 NEW SECTION. **Sec. 1.** (1) The legislature finds that it is
5 critically important that scientific information used to inform public
6 policy be of the highest quality and integrity.

7 (2) The legislature further finds that the scientific information
8 used in support of or in justification for public policy actions in the
9 state of Washington can be of varying quality and integrity.

10 (3) The legislature further finds that a perceived lack of quality
11 and integrity of scientific information is a key factor leading to
12 litigation.

13 (4) The legislature further finds that the generally accepted
14 approach to assuring the quality and integrity of scientific
15 information is the conduct of independent peer review by qualified
16 experts.

17 (5) The legislature further finds that the state of Washington has
18 not previously adopted a uniform standard for the use of independent
19 peer review by qualified experts.

1 (6) The legislature further finds that the only way to ensure that
2 agencies use scientifically credible information is for all agencies to
3 use the generally accepted practice of peer review.

4 (7) The legislature therefore declares that all government agencies
5 operating within the state must use the standards for peer review
6 established in sections 2 through 5 of this act.

7 NEW SECTION. **Sec. 2.** (1) Prior to taking agency action of any
8 kind, including the provision of technical assistance, related to
9 environmental, natural resources, access to and use of water, or land
10 use management, an agency must use peer-reviewed science.

11 (2) For purposes of this section, "peer-reviewed science" means
12 information developed using the scientific method for which the
13 following factors are true:

14 (a) The scientific information is provided by a qualified,
15 scientific professional or professionals with issue-appropriate
16 expertise based on the professional's credentials, certifications,
17 earned advanced degrees, years of experience, recognized leadership in
18 an appropriate scholarly area, formal training, and recognized ability
19 to produce peer-reviewed professional literature;

20 (b) The scientific information has been subjected to independent
21 peer review by at least three reviewers who are qualified and are
22 independent with no conflict of interest. Independent peer review may
23 be performed by reputable scientific journals, scholarly organizations
24 such as the national academies, commissioned by the relevant agency, or
25 commissioned by qualified entities whose interests will be affected by
26 the action;

27 (c) The methods used to obtain the information are clearly stated,
28 standardized for the pertinent scientific discipline, and are able to
29 be replicated;

30 (d) The conclusions underlying the information are based on
31 reasonable and logical assumptions supported by other studies and
32 consistent with the data presented;

33 (e) The data underlying the information have been analyzed using
34 the appropriate statistical or quantitative methods;

35 (f) The information has been placed in a proper context and is
36 appropriately framed with respect to the prevailing body of pertinent
37 scientific knowledge; and

1 (g) The information is based on assumptions, analytical techniques,
2 and conclusions that are clearly stated and well-referenced with
3 citations to credible literature and other pertinent existing
4 information.

5 NEW SECTION. **Sec. 3.** (1) Scientific studies may be brought
6 forward for consideration in support of an agency action under section
7 2 of this act by a participating governmental entity, academic
8 institution, qualified participating stakeholder group, or
9 participating individual. These studies must be demonstrated to meet
10 the requirements of section 2 of this act prior to being relied upon by
11 an agency for an agency action.

12 (2) For scientific studies where the information has not been
13 critically reviewed by other persons with qualified, relevant
14 scientific expertise, the agency implementing the provisions of section
15 2 of this act shall obtain and document fully independent, rigorous
16 peer review by other persons with qualified, relevant scientific
17 expertise.

18 (3) Reviews conducted in compliance with this section may not be
19 performed by an employee of an agency responsible for the provisions or
20 enforcement of the policy informed by the science being reviewed, or an
21 employee of or an affiliate of the entity that performed or helped fund
22 the science being reviewed.

23 NEW SECTION. **Sec. 4.** In order to demonstrate that an agency
24 action meets the requirements of sections 2 through 5 of this act, an
25 agency must maintain a public record that identifies:

26 (1) The scientific literature or other sources relied upon by the
27 agency; and

28 (2) Any scientific information reviewed by the agency that does not
29 meet the requirements of sections 2 through 5 of this act. The public
30 record must include a narrative explanation of why that information was
31 or was not included.

32 NEW SECTION. **Sec. 5.** (1) If an agency cannot meet the
33 requirements of section 2 of this act for a critical agency action, the
34 agency may only proceed with an action if it fully documents:

1 (a) A critical public health and safety need requiring action prior
2 to the development of peer-reviewed science satisfying the provisions
3 of sections 2 through 4 of this act;

4 (b) The lack of peer-reviewed science; and

5 (c) An established timeline for developing peer-reviewed science to
6 remove the uncertainty.

7 (2) Any agency action made using the provisions of subsection (1)
8 of this section must be strictly limited in scope and effect until the
9 necessary peer-reviewed science is available to comply with the
10 provisions of section 2 of this act. Additionally, the agency action
11 must be:

12 (a) Designed to accommodate adaptive management principles;

13 (b) Deemed experimental;

14 (c) Monitored and evaluated to determine effectiveness; and

15 (d) Improved to increase effectiveness over time or eliminated from
16 future application.

17 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act are each
18 added to chapter 34.05 RCW and codified with the subchapter heading of
19 "standards for the use of science to support public policy."

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