

SENATE BILL REPORT

SB 5622

As of February 10, 2015

Title: An act relating to requiring that the departments of fish and wildlife and ecology use empirical science to support agency actions affecting land use.

Brief Description: Requiring that the departments of fish and wildlife and ecology use empirical science to support agency actions affecting land use.

Sponsors: Senators Sheldon, Miloscia, Angel, Becker, Warnick and Pearson.

Brief History:

Committee Activity: Energy, Environment & Telecommunications: 2/10/15.

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

Staff: Jan Odano (786-7486)

Background: The Washington Department of Fish and Wildlife (WDFW) is responsible for establishing policy and direction for fish and wildlife species and their habitats, as well as establishing basic rules and regulations governing the time, place, manner, and methods used to harvest or enjoy fish and wildlife.

The Department of Ecology (Ecology) is organized into ten environmental management programs. The Shorelands and Environmental Assistance Program, in part, assists with state and local responsibilities for administering the state Water Pollution Control Act and the Shoreline Management Act. In addition the program activities include providing assistance to communities with watershed planning, floods and floodplain management, the State Environmental Policy Act, the Padilla Bay National Estuarine Research Reserve, and the Washington Conservation Corps.

Ecology's Water Quality Program addresses ground and surface water quality, non-point pollution, permitting of point source pollution, stormwater, wastewater treatment, and water quality assessment. This program is responsible for implementing state and federal water pollution control laws. Wastewater permits specify discharge limits, conditions, and requirements. The Water Quality Program duties also include administration of water quality grants and loans, aquatic plant management, and water quality assessment.

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.

The Administrative Procedure Act details requirements that must be satisfied in order for an agency to adopt a significant legislative rule. A significant legislative rule is one that:

- adopts substantive provisions of law, the violation of which subjects the violator to a penalty or sanction;
- establishes, alters, or revokes any qualification or standard for the issuance, suspension, or revocation of a license or permit; or
- adopts a new policy or regulatory program, or makes significant amendments to a policy or regulatory program.

Requirements for adoption of a significant legislative rule include a cost-benefit analysis, a determination of whether the rule imposes more stringent requirements on private entities than on public entities, and a determination of whether the rule differs from federal regulations and law.

Before taking a significant agency action, the Water Quality program and Shorelands and Environmental Assistance program within Ecology and WDFW must identify peer-reviewed science, scientific literature, and other sources relied upon for preparing a significant agency action. Both agencies must make available on its website the index of records, as required by the Public Records Act, of public records invoked or relied upon in support of a proposed significant agency action.

Summary of Bill: The Water Quality program and Shorelands and Environmental Assistance program within Ecology and WDFW must support all significant agency actions with empirical science that is obtained through proper use of the scientific method, peer review, reproduction of results, and journal publication. The agencies must cite three separate sources of empirical science supporting significant agency actions prior to taking action that would change, supersede, or invalidate a local land use policy or permit, or directly or indirectly diminish the allowed uses of a private property.

Appropriation: None.

Fiscal Note: Requested on February 6, 2014.

Committee/Commission/Task Force Created: No.

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