

NEW SECTION. Sec. 22. Sections 11 through 20 of this act shall constitute a new chapter in Title 70 RCW.

NEW SECTION. Sec. 23. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 24. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 5, 1990.

Passed the Senate March 1, 1990.

Approved by the Governor March 21, 1990.

Filed in Office of Secretary of State March 21, 1990.

CHAPTER 115

[Substitute House Bill No. 2482]

PUGET SOUND WATER QUALITY AUTHORITY

AN ACT Relating to the Puget Sound water quality authority; amending RCW 90.70.011, 90.70.045, 90.70.055, 90.70.060, 90.70.070, and 90.70.080; reenacting and amending RCW 43.88.030; adding new sections to chapter 90.70 RCW; adding new sections to chapter 43.131 RCW; creating a new section; and repealing RCW 90.70.900.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 502, Laws of 1987 as amended by section 18, chapter 11, Laws of 1989 and by section 3, chapter 311, Laws of 1989 and RCW 43.88.030 are each reenacted and amended to read as follows:

(1) The director of financial management shall provide all agencies with a complete set of instructions for submitting biennial budget requests to the director at least three months before agency budget documents are due into the office of financial management. The budget document or documents shall consist of the governor's budget message which shall be explanatory of the budget and shall contain an outline of the proposed financial policies of the state for the ensuing fiscal period and shall describe in connection therewith the important features of the budget. The message shall set forth the reasons for salient changes from the previous fiscal period in expenditure and revenue items and shall explain any major changes in financial policy. Attached to the budget message shall be such supporting schedules, exhibits and other explanatory material in respect to both current operations and capital improvements as the governor shall deem to be useful to the legislature. The budget document or documents shall set forth a proposal for expenditures in the ensuing fiscal period based upon the estimated revenues as approved by the economic and revenue forecast council for such fiscal period from the source and at the rates existing by law at the time of

submission of the budget document. However, the estimated revenues for use in the governor's budget document may be adjusted to reflect budgetary revenue transfers and revenue estimates dependent upon budgetary assumptions of enrollments, workloads, and caseloads. All adjustments to the approved estimated revenues must be set forth in the budget document. The governor may additionally submit, as an appendix to each agency budget or to the budget document or documents, a proposal for expenditures in the ensuing fiscal period from revenue sources derived from proposed changes in existing statutes.

The budget document or documents shall also contain:

(a) Revenues classified by fund and source for the immediately past fiscal period, those received or anticipated for the current fiscal period, and those anticipated for the ensuing biennium;

(b) The undesignated fund balance or deficit, by fund;

(c) Such additional information dealing with expenditures, revenues, workload, performance and personnel as the legislature may direct by law or concurrent resolution;

(d) Such additional information dealing with revenues and expenditures as the governor shall deem pertinent and useful to the legislature;

(e) Tabulations showing expenditures classified by fund, function, activity and object; ((and))

(f) A delineation of each agency's activities, including those activities funded from nonbudgeted, nonappropriated sources, including funds maintained outside the state treasury; and

(g) Identification of all proposed direct expenditures to implement the Puget Sound water quality plan under chapter 90.70 RCW, shown by agency and in total.

(2) The budget document or documents shall include detailed estimates of all anticipated revenues applicable to proposed operating or capital expenditures and shall also include all proposed operating or capital expenditures. The total of beginning undesignated fund balance and estimated revenues less working capital and other reserves shall equal or exceed the total of proposed applicable expenditures. The budget document or documents shall further include:

(a) Interest, amortization and redemption charges on the state debt;

(b) Payments of all reliefs, judgments and claims;

(c) Other statutory expenditures;

(d) Expenditures incident to the operation for each agency;

(e) Revenues derived from agency operations;

(f) Expenditures and revenues shall be given in comparative form showing those incurred or received for the immediately past fiscal period and those anticipated for the current biennium and next ensuing biennium;

(g) A showing and explanation of amounts of general fund obligations for debt service and any transfers of moneys that otherwise would have been available for general fund appropriations;

(h) Common school expenditures on a fiscal-year basis;

(i) A showing, by agency, of the value and purpose of financing contracts for the lease/purchase or acquisition of personal or real property for the current and ensuing fiscal periods.

(3) A separate budget document or schedule may be submitted consisting of:

(a) Expenditures incident to current or pending capital projects and to proposed new capital projects, relating the respective amounts proposed to be raised therefor by appropriations in the budget and the respective amounts proposed to be raised therefor by the issuance of bonds during the fiscal period;

(b) A capital program consisting of proposed capital projects for at least the two fiscal periods succeeding the next fiscal period. The capital program shall include for each proposed project a statement of the reason or purpose for the project along with an estimate of its cost;

(c) Such other information bearing upon capital projects as the governor shall deem to be useful to the legislature;

(d) Such other information relating to capital improvement projects as the legislature may direct by law or concurrent resolution.

(4) No change affecting the comparability of agency or program information relating to expenditures, revenues, workload, performance and personnel shall be made in the format of any budget document or report presented to the legislature under this section or RCW 43.88.160(1) relative to the format of the budget document or report which was presented to the previous regular session of the legislature during an odd-numbered year without prior legislative concurrence. Prior legislative concurrence shall consist of (a) a favorable majority vote on the proposal by the standing committees on ways and means of both houses if the legislature is in session or (b) a favorable majority vote on the proposal by members of the legislative evaluation and accountability program committee if the legislature is not in session.

Sec. 2. Section 3, chapter 451, Laws of 1985 and RCW 90.70.011 are each amended to read as follows:

(1) There is established the Puget Sound water quality authority composed of ~~((seven))~~ eleven members. ~~((who are))~~ Nine members shall be appointed by the governor and confirmed by the senate. In addition, the commissioner of public lands or the commissioner's designee and the director of ecology or the director's designee shall serve as ex officio members. Three of the members shall include a representative from the counties, a representative from the cities, and a tribal representative. The ~~((governor shall select one of the seven members to act as))~~ director of ecology shall be

chair of the authority (~~and be presiding officer of the authority~~). In making these appointments, the governor shall seek to include representation of the variety of interested parties concerned about Puget Sound water quality. (~~The commissioner of public lands and the director of ecology shall serve as ex officio, nonvoting members of the authority. The six~~) Of the appointed members, at least one shall be selected from each of the six congressional districts surrounding Puget Sound(;;). Members shall serve four-year terms. Of the initial members appointed to the authority, two shall serve for two years, two shall serve for three years, and two shall serve for four years. Thereafter members shall be appointed to four-year terms. Members representing cities, counties, and the tribes shall also serve four-year staggered terms, as determined by the governor. Vacancies shall be filled by appointment for the remainder of the unexpired term of the position being vacated. The ((chair)) executive director of the authority shall be selected by the governor and shall serve at the pleasure of the governor. The executive director shall not be a member of the authority.

(2) (~~The voting members, exclusive of the chair,;~~) Members shall be compensated as provided in RCW 43.03.250. ((The voting)) Members shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(3) The ((chair)) executive director of the authority shall be a full-time employee responsible for the administration of all functions of the authority, including hiring and terminating staff, contracting, coordinating with the governor, the legislature, and other state and local entities, and the delegation of responsibilities as deemed appropriate. The salary of the ((chair)) executive director shall be fixed by the governor, subject to RCW 43.03.040.

(4) The ((chair)) authority shall prepare a budget and a work plan (~~(which are subject to review and approval by the authority))~~).

(5) Not more than four employees of the authority may be exempt from the provisions of chapter 41.06 RCW.

(6) The executive director and staff of the authority shall be located in the Olympia area, as space becomes available. The department of general administration shall house the authority within the department of ecology.

Sec. 3. Section 7, chapter 451, Laws of 1985 as amended by section 72, chapter 36, Laws of 1988 and RCW 90.70.045 are each amended to read as follows:

(1) The ((chair)) executive director shall hire staff for the authority. In so doing, the ((chair)) executive director shall recognize the many continuing planning and research activities concerning Puget Sound water quality and shall seek to acquire competent and knowledgeable staff from state, federal, and local government agencies and other agencies that are currently involved in these activities.

(2) As deemed appropriate, the ~~((chair))~~ executive director may request the state departments of ecology, community development, fisheries, wildlife, agriculture, natural resources, parks and recreation, and ~~((social and))~~ health ~~((services))~~ to each assign at least one employee to the authority. The ~~((chair))~~ executive director shall enter into an interagency agreement with agencies assigning employees to the authority. Such agreement shall provide for reimbursement, by the authority to the assigning agency, of all work-related expenditures associated with the assignment of the employees. During the term of their assignment, the ~~((chair shall have))~~ executive director has full authority and responsibility for the activities of these employees.

(3) The ~~((chair))~~ executive director shall seek assignment of appropriate federal and local government employees under available means.

Sec. 4. Section 4, chapter 451, Laws of 1985 and RCW 90.70.055 are each amended to read as follows:

The authority shall:

(1) Prepare and adopt a comprehensive Puget Sound water quality management plan, as defined in RCW 90.70.060. In preparing the plan and any substantial revisions to the plan, the authority shall consult with its advisory committee or committees and appropriate federal, state, and local agencies. The authority shall also solicit extensive participation by the public by whatever means it finds appropriate, including public hearings throughout communities bordering or near Puget Sound, dissemination of information through the news media, public notices, and mailing lists, and the organization of workshops, conferences, and seminars;

(2) During the plan's initial development and any subsequent revisions, submit ~~((quarterly))~~ annual progress reports on plan revisions and implementation to the governor and the legislature.

(3) Submit the plan to the governor and the legislature no later than January 1, 1987. The authority shall review the plan at least every ~~((two))~~ four years and revise the plan, as deemed appropriate, and shall submit the plan by July 1, 1994, and every four years thereafter;

(4) Prepare a biennial "state of the Sound" report and submit such report to the governor, the legislature, and the state agencies and local governments identified in the plan. Copies of the report shall be made available to the public. The report shall describe the current condition of water quality and related resources in Puget Sound and shall include:

(a) The status and condition of the resources of Puget Sound, including the results of ecological monitoring, including an assessment of the economic value of Puget Sound;

(b) Current and foreseeable trends in water quality of Puget Sound and the management of its resources;

(c) Review of significant public and private activities affecting Puget Sound and an assessment of whether such activities are consistent with the plan; and

(d) Recommendations to the governor, the legislature, and appropriate state and local agencies for actions needed to remedy any deficiencies in current policies, plans, programs, or activities relating to the water quality of Puget Sound, and recommendations concerning changes necessary to protect and improve Puget Sound water quality; and

(5) Review the Puget Sound related budgets and regulatory and enforcement activities of state agencies with responsibilities for water quality and related resources in Puget Sound.

Sec. 5. Section 8, chapter 451, Laws of 1985 as amended by section 31, chapter 11, Laws of 1989 and RCW 90.70.060 are each amended to read as follows:

The plan adopted by the authority shall be a positive document prescribing the needed actions for the maintenance and enhancement of Puget Sound water quality. The plan shall address all the waters of Puget Sound, the Strait of Juan de Fuca, and, to the extent that they affect water quality in Puget Sound, all waters flowing into Puget Sound, and adjacent lands. The authority may define specific geographic boundaries within which the plan applies. The plan shall coordinate and incorporate existing planning and research efforts of state agencies and local government related to Puget Sound, and shall avoid duplication of existing efforts. The plan shall include:

(1) A statement of the goals and objectives for long and short-term management of the water quality of Puget Sound;

(2) A resource assessment which identifies critically sensitive areas, key characteristics, and other factors which lead to an understanding of Puget Sound as an ecosystem;

(3) Demographic information and assessment as relates to future water quality impacts on Puget Sound;

(4) An identification and legal analysis of all existing laws governing actions of government entities which may affect water quality management of Puget Sound, the interrelationships of those laws, and the effect of those laws on implementation of the provisions of the plan;

(5) Review and assessment of existing criteria and guidelines for governmental activities affecting Puget Sound's resources, including shoreline resources, aquatic resources, associated watersheds, recreational resources and commercial resources;

(6) Identification of research needs and priorities;

(7) Recommendations for guidelines, standards, and timetables for protection and clean-up activities and the establishment of priorities for major clean-up investments and nonpoint source management, and the projected costs of such priorities;

(8) A procedure assuring local government initiated planning for Puget Sound water quality protection;

(9) Ways to better coordinate federal, state, and local planning and management activities affecting Puget Sound's water quality;

(10) Public involvement strategies, including household hazardous waste education, community clean-up efforts, and public participation in developing and implementing the plan;

(11) Recommendations on protecting, preserving and, where possible, restoring wetlands and wildlife habitat and shellfish beds throughout Puget Sound;

(12) Recommendations for a comprehensive water quality and sediment monitoring program;

(13) Analysis of current industrial pretreatment programs for toxic wastes, and procedures and enforcement measures needed to enhance them;

(14) Recommendations for a program of dredge spoil disposal, including interim measures for disposal and storage of dredge spoil material from or into Puget Sound;

(15) Definition of major public actions subject to review and comment by the authority because of a significant impact on Puget Sound water quality and related resources, and development of criteria for review thereof;

(16) Recommendations for implementation mechanisms to be used by state and local government agencies;

(17) Standards and procedures for reporting progress by state and local governments in the implementation of the plan;

(18) An analysis of resource requirements and funding mechanisms for updating of the plan and plan implementation; and

(19) Legislation needed to assure plan implementation.

The authority shall circulate and receive comments on drafts of the plan mandated herein, and keep a record of all relevant comments made at public hearings and in writing. These records should be made easily available to interested persons.

As part of the plan, the authority shall prepare a strategy for implementing the plan that includes, but is not limited to: (a) Setting priorities for implementation of plan elements to facilitate executive and legislative decision making; (b) assessment of the capabilities and constraints, both internal and external to state and local government, that may affect plan implementation; and (c) an analysis of the strategic options in light of the resources available to the state. In developing this strategy, the authority shall consult and coordinate with other related environmental planning efforts.

Sec. 6. Section 9, chapter 451, Laws of 1985 and RCW 90.70.070 are each amended to read as follows:

(1) In conducting planning, regulatory, and appeals actions, the state agencies and local governments identified in the plan must evaluate, and incorporate as applicable, subject to the availability of appropriated funds or other funding sources, the provisions of the plan, including any guidelines, standards, and timetables contained in the plan.

(2) The authority shall review the progress of state agencies and local governments regarding the timely implementation of the plan. Where prescribed actions have not been accomplished in accordance with the plan, the responsible state agencies and local governments shall, at the request of the authority, submit written explanations for the shortfalls, together with their proposed remedies, to the authority.

The results of the review and a description of the actions necessary to comply with the plan shall be included in the biennial state of the Sound report.

(3) The state agencies and local governments identified in the plan shall review their activities biennially and document their consistency with the plan. They shall submit written reports or updates of their findings to the authority.

(4) The authority shall review the major actions affected by the plan being considered by the state agencies and local governments and shall comment in a timely manner regarding consistency with the plan and may participate in administrative and subsequent judicial proceedings with respect to such actions. Any deviations from the plan, identified by the authority, shall be transmitted in writing by the authority to the responsible state agency or local government.

Sec. 7. Section 10, chapter 451, Laws of 1985 and RCW 90.70.080 are each amended to read as follows:

(1) To implement this chapter, state agencies are authorized to adopt rules that are applicable to actions and activities on a less than state-wide geographic basis. State agencies are encouraged to adopt rules that protect Puget Sound water quality before the adoption of the plan by the authority.

(2) A rule to implement an element of the plan that applies on a less than state-wide basis shall contain a statement defining the geographic area to which it applies. In determining whether to adopt rules on a state-wide or less than state-wide basis, state agencies shall consider at least the following factors:

(a) Number and location of primary affected persons;

(b) Geographical distribution of the actions and activities;

(c) Equity among regulated and nonregulated persons;

(d) Difficulty and practicality of implementation, including the effects on existing agency programs;

(e) Expected environmental benefits;

(f) Availability of information related to the actions and activities; and

(g) Requirements of other state or federal laws, rules, and policies.

When a state agency proposes to adopt a rule applicable beyond the Puget Sound area, and that rule was originally proposed to implement an element of the plan, the state agency shall ensure that early and meaningful participation by interested members of the public is provided from all geographic areas to which the rule will be applicable.

(3) To implement this chapter, counties, cities, and towns are authorized to adopt ordinances, rules, and regulations that are applicable on less than a county-wide, city-wide, or town-wide basis. Counties, cities, and towns are encouraged to adopt ordinances, rules, and regulations that protect Puget Sound water quality before the adoption of the plan by the authority.

NEW SECTION. Sec. 8. A new section is added to chapter 90.70 RCW to read as follows:

In addition to other powers and duties specified in this chapter, the authority may form a public nonprofit corporation in the same manner as a private nonprofit corporation is formed under chapter 24.03 RCW, the Washington Nonprofit Corporation Act. The public corporation shall be an instrumentality of the state and have all the powers and be subject to the same restrictions as are permitted or prescribed to private nonprofit corporations but shall exercise these powers only for carrying out the purposes of this section. However, the public nonprofit corporation shall not borrow money or incur any indebtedness. The public corporation shall be known as the Puget Sound Foundation. The purposes of the foundation shall be to:

(1) Receive, disburse, and administer gifts, grants, endowments, or other funds from any source that support a comprehensive and coordinated program of research and education activities connected with Puget Sound water quality, consistent with the purposes of this chapter;

(2) Promote the coordination and support of research and education activities that address the cumulative effects of decisions on the Puget Sound ecosystem;

(3) Assist in making the results of research available and useful to the decision-making process; and

(4) Host an annual meeting, to be known as the Puget Sound summit, assembling state agencies, local governments, tribes, the public, and private businesses for the purposes of improving understanding about the obstacles to plan implementation, enhancing cooperation, and expediting Puget Sound cleanup.

NEW SECTION. Sec. 9. A new section is added to chapter 90.70 RCW to read as follows:

(1) In addition to other powers and duties specified in this chapter, the authority shall ensure implementation of the Puget Sound ambient monitoring program established in the plan under RCW 90.70.060(12). The program shall:

(a) Develop a baseline and examine differences among areas of Puget Sound, for environmental conditions, natural resources, and contaminants in seafood, against which future changes can be measured;

(b) Take measurements relating to specific program elements identified in the plan;

(c) Measure the progress of the ambient monitoring programs implemented under the plan;

(d) Provide a permanent record of significant natural and human-caused changes in key environmental indicators in Puget Sound; and

(e) Help support research on Puget Sound.

(2) To ensure proper coordination of the ambient monitoring program, the authority may establish an interagency coordinating committee consisting of representatives from the departments of ecology, fisheries, natural resources, wildlife, and health, and such federal, local, tribal, and other organizations as are necessary to implement the program.

(3) Each state agency with responsibilities for implementing the Puget Sound ambient monitoring program, as specified in the plan, shall participate in the program.

NEW SECTION. Sec. 10. A new section is added to chapter 90.70 RCW to read as follows:

(1) At least twenty days before public hearings commence regarding a proposal to adopt or revise the plan or any portion of it, the authority shall cause to be published in the state register the following information:

(a) A summary of the proposal;

(b) The personnel, with their office location and telephone numbers, who are responsible for the drafting of the proposal; and

(c) When, where, and how persons may present their views on the proposal.

(2) The authority may not adopt any portion of the plan that is substantially different from the version of the plan that was summarized in the state register under subsection (1) of this section, unless a supplemental notice is published in the state register reopening public comment on the proposed variance. The following factors shall be considered in determining whether an adopted portion of the plan is substantially different from the summarized version:

(a) The extent to which a reasonable person affected by the adopted plan would have understood that the summarized version would affect his or her interests;

(b) The extent to which the subject of the adopted plan or the issues determined in it are substantially different from the subject or issues involved in the summarized version; and

(c) The extent to which the effects of the adopted plan differ from the effects of the summarized version.

NEW SECTION. Sec. 11. A new section is added to chapter 43.131 RCW to read as follows:

The Puget Sound water quality authority and its powers and duties shall be terminated on June 30, 1995, as provided in section 12 of this act.

NEW SECTION. Sec. 12. A new section is added to chapter 43.131 RCW to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1996:

- (1) Section 1, chapter 451, Laws of 1985 and RCW 90.70.001;
- (2) Section 2, chapter 451, Laws of 1985 and RCW 90.70.005;
- (3) Section 3, chapter 451, Laws of 1985, section 2 of this act and RCW 90.70.011;
- (4) Section 5, chapter 451, Laws of 1985 and RCW 90.70.025;
- (5) Section 6, chapter 451, Laws of 1985 and RCW 90.70.035;
- (6) Section 7, chapter 451, Laws of 1985, section 72, chapter 36, Laws of 1988, section 3 of this act and RCW 90.70.045;
- (7) Section 4, chapter 451, Laws of 1985, section 4 of this act and RCW 90.70.055;
- (8) Section 8, chapter 451, Laws of 1985, section 31, chapter 11, Laws of 1989, section 5 of this act and RCW 90.70.060;
- (9) Section 9, chapter 451, Laws of 1985, section 6 of this act and RCW 90.70.070;
- (10) Section 10, chapter 451, Laws of 1985, section 7 of this act and RCW 90.70.080; and
- (11) Section 14, chapter 451, Laws of 1985 and RCW 90.70.901.

NEW SECTION. Sec. 13. Nothing in section 12 of this act shall affect the implementation and requirements of the Puget Sound water quality management plan existing on June 30, 1995, or such other effective date of repeal of the laws referenced in section 12 of this act. The implementation of the plan on and after that date shall be the responsibility of such entities as are provided by the legislature.

NEW SECTION. Sec. 14. Section 6, chapter 243, Laws of 1983, section 11, chapter 451, Laws of 1985 and RCW 90.70.900 are each repealed.

Passed the House February 28, 1990.

Passed the Senate February 27, 1990.

Approved by the Governor March 21, 1990.

Filed in Office of Secretary of State March 21, 1990.