

(4) Upon the timely receipt of a response signed by the voter, the county auditor shall consider the inquiry satisfied and will make ~~((the))~~ any address corrections requested by the voter on the permanent registration record. The county auditor shall cancel the registration of a voter who fails to respond to the notice of inquiry within ~~((sixty))~~ forty-five days after the date of mailing.

(5) The county auditor shall notify ~~((the))~~ any voter whose registration has been canceled by ~~((mail as prescribed in RCW 29.10.080. A voter may respond no later than the forty-fifth day after the date of mailing of the notice of cancellation))~~ sending, by first class mail, a written notice to the address indicated on the voter's permanent registration record and to any other address to which the original inquiry was sent. Upon receipt of ~~((the))~~ a satisfactory voter response, the auditor shall reinstate the voter.

(6) A voter whose registration has been canceled under this section and who offers to vote at the next ensuing election shall be issued a questioned ballot. Upon receipt of such a questioned ballot the auditor shall investigate the circumstances surrounding the original cancellation. If he or she determines that the cancellation was in error, the voter's registration shall be immediately reinstated, and the voter's questioned ballot shall be counted. If the original cancellation was not in error, the voter shall be afforded the opportunity to reregister at his or her correct address, and the voter's questioned ballot shall not be counted.

NEW SECTION. Sec. 2. Section 2, chapter 359, Laws of 1987 and RCW 29.10.190 are each repealed.

Passed the House March 15, 1989.

Passed the Senate April 5, 1989.

Approved by the Governor May 5, 1989.

Filed in Office of Secretary of State May 5, 1989.

CHAPTER 262

[Substitute House Bill No. 1854]

WATER POLLUTION CONTROL—RESOURCE DAMAGE—MEASURE OF DAMAGES

AN ACT Relating to resource damage assessment under the state water pollution control act; amending RCW 90.48.142, 90.48.390, and 90.48.400; creating new sections; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that there is confusion regarding the measure of damages authorized under RCW 90.48.142. The intent of this act is to clarify existing law on the measure of damages authorized under RCW 90.48.142, not to change the law.

Sec. 2. Section 13, chapter 139, Laws of 1967 ex. sess. as last amended by section 69, chapter 36, Laws of 1988 and RCW 90.48.142 are each amended to read as follows:

(1) Any person who violates any of the provisions of this chapter, or fails to perform any duty imposed by this chapter, or violates an order or other determination of the department or the director made pursuant to the provisions of this chapter, including the conditions of a waste discharge permit issued pursuant to RCW 90.48.160, and in the course thereof causes the death of, or injury to, fish, animals, vegetation or other resources of the state, or otherwise causes a reduction in the quality of the state's waters below the standards set by the department or, if no standards have been set, causes significant degradation of water quality, thereby damaging the same, shall be liable to pay the state damages in an amount equal to the sum of money necessary to: (a) Restore any damaged resource to its condition prior to the injury, to the extent technically feasible, and compensate for the lost value incurred during the period between injury and restoration; or (b) compensate for the lost value throughout the duration of the injury that the resource previously provided if restoration is not technically feasible and, when only partial restoration is technically feasible, compensate for the remaining lost value. "Technical feasibility" or "technically feasible" shall mean for the purposes of this subsection, that given available technology, a restoration or enhancement project can be successfully completed at a cost that is not disproportionate to the value of the resource prior to the injury.

(2) Restoration shall include the cost to restock such waters, replenish or replace such resources, and otherwise restore the stream, lake or other ((water source)) waters of the state, including any estuary, ocean area, submerged lands, shoreline, bank, or other lands adjoining such waters to its condition prior to the injury, as such condition is determined by the department. The lost value of a damaged resource shall be equal to the sum of consumptive, nonconsumptive, and indirect use values, as well as lost taxation, leasing, and licensing revenues. Indirect use values may include existence, bequest, option, and aesthetic values. Damages shall be determined by generally accepted and cost-effective procedures.

(3) Such damages shall be recoverable in an action brought by the attorney general on behalf of the people of the state of Washington in the superior court of Thurston county or the county in which such damages occurred: PROVIDED, That if damages occurred in more than one county the attorney general may bring action in any of the counties where the damages occurred. Any money so recovered by the attorney general shall be transferred to ((either the state wildlife fund or the department of fisheries to use for food fish or shellfish management purposes and propagation, or to any other agency of the state having jurisdiction over the resource damaged and for which said moneys were recovered, as appropriate. PROVIDED, That the agency receiving such money shall utilize not less than one-half of

~~said money on activities or)) the coastal protection fund established under RCW 90.48.390. A steering committee consisting of representatives of the departments of ecology, fisheries, wildlife, natural resources, and the parks and recreation commission shall authorize the expenditure of the moneys collected under this section after consulting impacted local agencies and local and tribal governments. The department shall chair the steering committee. The moneys collected under this section shall only be used for the following purposes: (a) Environmental restoration and enhancement projects intended to restore or enhance environmental, recreational, or aesthetic resources for the benefit of Washington's citizens; (b) investigations of the long-term effects of discharges, including sewer sludge, on state resources; and (c) reimbursement of agencies for reasonable reconnaissance and damage assessment costs under this chapter. Agencies may not be reimbursed under this section for the salaries and benefits of permanent employees for routine operational support. Agencies may only be reimbursed under this section if money for reconnaissance and damage assessment activities is unavailable from other sources. In authorizing restoration or enhancement projects, preference shall be given to projects within ~~((the county))~~ counties where ~~((the action was brought by the attorney general))~~ the injury occurred. No action shall be authorized under this section against any person operating in compliance with the conditions of a waste discharge permit issued pursuant to RCW 90.48.160.~~

Sec. 3. Section 4, chapter 180, Laws of 1971 ex. sess. and RCW 90.48.390 are each amended to read as follows:

The coastal protection fund is established to be used by the department as a revolving fund for carrying out the purposes of RCW 90.48.315 through 90.48.365 and RCW 78.52.020, 78.52.125, 82.36.330, 90.48.142, 90.48.315, 90.48.370 through 90.48.410, 90.48.903, 90.48.906 and 90.48.907. To this fund there shall be credited penalties, fees, damages, and charges received pursuant to the provisions of RCW 90.48.142 and 90.48.315 through 90.48.365 and an amount equivalent to one cent per gallon from each marine use refund claim under RCW 82.36.330.

Moneys in the fund not needed currently to meet the obligations of the department in the exercise of its powers, duties, and functions under RCW 90.48.315 through 90.48.365 and RCW 78.52.020, 78.52.125, 82.36.330, 90.48.142, 90.48.315, 90.48.370 through 90.48.410, 90.48.903, 90.48.906 and 90.48.907 shall be deposited with the state treasurer to the credit of the fund and may be invested in such manner as is provided for by law. Interest received on such investment shall be credited to the fund.

Sec. 4. Section 5, chapter 180, Laws of 1971 ex. sess. and RCW 90.48.400 are each amended to read as follows:

(1) Moneys in the coastal protection fund shall be disbursed for the following purposes and no others:

(a) All costs of the department related to the enforcement of RCW 90.48.315 through 90.48.365 and RCW 78.52.020, 78.52.125, 82.36.330, 90.48.142, 90.48.315, 90.48.370 through 90.48.410, 90.48.903, 90.48.906 and 90.48.907 including but not limited to equipment rental and contracting costs.

(b) All costs involved in the abatement of pollution related to the discharge of oil.

(c) The director may allocate a portion of the fund to be devoted to research and development in the causes, effects, and removal of pollution caused by the discharge of oil.

(2) Moneys disbursed from the coastal protection fund for the abatement of pollution caused by the discharge of oil shall be reimbursed to the fund whenever:

(a) Moneys are available under any federal program; or

(b) Moneys are available from a recovery made by the department from the person liable for the discharge of oil.

(3) Moneys collected under section 2 of this act shall only be used for the purposes enumerated in that section, subject to the approval of the steering committee.

****NEW SECTION. Sec. 5. This act applies prospectively only and not retroactively. It applies only to causes of action which arise after the effective date of this act.***

*Sec. 5 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 6. 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. 7. 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 April 15, 1989.

Passed the Senate April 6, 1989.

Approved by the Governor May 5, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 5, 1989.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 5, Substitute House Bill No. 1854 entitled:

"AN ACT Relativ_g to resource damage assessment under the state water pollution control act."

Section 1 states that the Legislature finds that there is confusion regarding the measure of natural resource damages and that the intent of this bill is to clarify existing law.

This intent, however, is contradicted by section 5 which states that the act is intended to apply prospectively only and not retroactively. This will continue the ambiguity contrary to the rule of statutory construction that remedial or clarifying legislation, in civil matters such as this, is intended to apply retroactively.

With the exception of section 5, Substitute House Bill No. 1854 is approved.*

CHAPTER 263

[House Bill No. 1757]

SCHOOL DISTRICTS—SECOND CLASS—EMPLOYMENT OF OFFICER'S SPOUSE AS SUBSTITUTE TEACHER

AN ACT Relating to employing contracts in second class school districts; amending RCW 42.23.030; adding a new section to chapter 28A.60 RCW; and declaring an emergency.

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

Sec. 1. Section 1, chapter 44, Laws of 1983 1st ex. sess. and RCW 42-.23.030 are each amended to read as follows:

No municipal officer shall be beneficially interested, directly or indirectly, in any contract which may be made by, through or under the supervision of such officer, in whole or in part, or which may be made for the benefit of his office, or accept, directly or indirectly, any compensation, gratuity or reward in connection with such contract from any other person beneficially interested therein. This section shall not apply in the following cases:

(1) The furnishing of electrical, water or other utility services by a municipality engaged in the business of furnishing such services, at the same rates and on the same terms as are available to the public generally;

(2) The designation of public depositaries for municipal funds;

(3) The publication of legal notices required by law to be published by any municipality, upon competitive bidding or at rates not higher than prescribed by law for members of the general public;

(4) The designation of a school director as clerk or as both clerk and purchasing agent of a school district;

(5) The employment of any person by a municipality, other than a county of the first class or higher, a city of the first or second class, an irrigation district encompassing in excess of fifty thousand acres, or a first class school district, for unskilled day labor at wages not exceeding one hundred dollars in any calendar month;

(6) The letting of any other contract (except a sale or lease as seller or lessor) by a municipality, other than a county of the first class or higher, a city of the first or second class, an irrigation district encompassing in excess of fifty thousand acres, or a first class school district: **PROVIDED**, That the total volume of business represented by such contract or contracts in which a particular officer is interested, singly or in the aggregate, as measured by the dollar amount of the municipality's liability thereunder, shall not exceed