

(5) The supplemental rate charged under this section to fund postretirement adjustments which are provided on a nonautomatic basis to current retirees shall be calculated as the percentage of pay needed to fund the adjustments as they are paid to the retirees. The supplemental rate charged under this section to fund automatic postretirement adjustments for active or retired members of the public employees' retirement system plan I and the teachers' retirement system plan I shall be calculated as the level percentage of pay needed to fund the cost of the automatic adjustments not later than June 30, 2024.

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CHAPTER 2

[House Bill No. 2242]

OCEAN RESOURCES MANAGEMENT ACT

AN ACT Relating to oil spills and the transfer and safety of petroleum products across the marine waters of the state of Washington; adding a new chapter to Title 88 RCW; adding a new chapter to Title 43 RCW; adding new sections to chapter 90.58 RCW; creating new sections; prescribing penalties; and making appropriations.

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

NEW SECTION. Sec. 1. The legislature recognizes that oil spills and other forms of incremental pollution present serious danger to the fragile marine environment of Washington state. It is the intent and purpose of this chapter to define and prescribe financial responsibility requirements for vessels that transport petroleum products across the waters of the state of Washington.

NEW SECTION. Sec. 2. The following definitions apply throughout this chapter:

- (1) "Department" means the state department of ecology;
- (2) "Petroleum products" means oil as it is defined in RCW 90.48.315;
- (3) "Vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

NEW SECTION. Sec. 3. Any vessel over three hundred gross tons, that transports petroleum products as cargo, using any port or place in the state of Washington or the navigable waters of the state shall establish, under rules prescribed by the director of the department of ecology, evidence of financial responsibility in the amount of the greater of one million dollars, or one hundred fifty dollars per gross ton of such vessel, to meet the liability to the state of Washington for the following: (1) The actual costs

for removal of spills of petroleum products; (2) civil penalties and fines; and (3) natural resource damages.

NEW SECTION. Sec. 4. Financial responsibility may be established by any one of, or a combination of, the following methods acceptable to the director of the department of ecology: (1) Evidence of insurance; (2) surety bonds; (3) qualification as a self-insurer; or (4) other evidence of financial responsibility. Any bond filed shall be issued by a bonding company authorized to do business in the United States. Documentation of such financial responsibility shall be kept on any barge or tank vessel transporting petroleum products as cargo and filed with the department. The owner or operator of any other vessel shall maintain on the vessel a certificate issued by the United States coast guard evidencing compliance with the requirements of section 311 of the federal clean water act, 33 U.S.C. Sec. 1251 et seq.

NEW SECTION. Sec. 5. Any vessel owner or operator that does not meet the financial responsibility requirements of this act and any rules prescribed thereunder shall be reported to the secretary of transportation who shall suspend the privilege of operating said vessel until financial responsibility is demonstrated.

NEW SECTION. Sec. 6. Any owner or operator of a vessel subject to this chapter, who fails to comply with section 3 of this act or any regulation issued thereunder, shall be subject to a penalty not to exceed ten thousand dollars. The penalty shall be imposed pursuant to RCW 43.21B.300.

NEW SECTION. Sec. 7. Sections 1 through 6 of this act shall constitute a new chapter in Title 88 RCW.

NEW SECTION. Sec. 8. **LEGISLATIVE FINDINGS.** (1) Washington's coastal waters, seabed, and shorelines are among the most valuable and fragile of its natural resources.

(2) Ocean and marine-based industries and activities, such as fishing, aquaculture, tourism, and marine transportation have played a major role in the history of the state and will continue to be important in the future. Other industries and activities, such as those based on the development and extraction of minerals and other nonrenewable resources, can provide social and economic benefits as well.

(3) Washington's coastal waters, seabed, and shorelines are faced with conflicting use demands. Some uses may pose unacceptable environmental or social risks at certain times.

(4) At present, there is not enough information available to adequately assess the potential adverse effects of oil and gas exploration and production off Washington's coast.

(5) The state of Washington has primary jurisdiction over the management of coastal and ocean natural resources within three miles of its coastline. From three miles seaward to the boundary of the two hundred mile exclusive economic zone, the United States federal government has

primary jurisdiction. Since protection, conservation, and development of the natural resources in the exclusive economic zone directly affect Washington's economy and environment, the state has an inherent interest in how these resources are managed.

NEW SECTION. Sec. 9. LEGISLATIVE POLICY AND INTENT.

(1) The purpose of this chapter is to articulate policies and establish guidelines for the exercise of state and local management authority over Washington's coastal waters, seabed, and shorelines.

(2) There shall be no leasing of Washington's tidal or submerged lands extending from mean high tide seaward three miles along the Washington coast from Cape Flattery south to Cape Disappointment, nor in Grays Harbor, Willapa Bay, and the Columbia river downstream from the Longview bridge, for purposes of oil or gas exploration, development, or production until at least July 1, 1995. During the 1995 legislative session, the legislature shall determine whether the moratorium on leasing should be extended past July 1, 1995. This determination shall be based on the information available at that time, including the analysis described in section 12 of this act. If the legislature does not extend the moratorium on leasing, the moratorium will end on July 1, 1995. At any time that oil or gas leasing, exploration, and development are allowed to occur, these activities shall be required to meet or exceed the standards and criteria contained in section 11 of this act.

(3) When conflicts arise among uses and activities, priority shall be given to resource uses and activities that will not adversely impact renewable resources over uses which are likely to have an adverse impact on renewable resources.

(4) It is the policy of the state of Washington to actively encourage the conservation of liquid fossil fuels, and to explore available methods of encouraging such conservation.

(5) It is not currently the intent of the legislature to include recreational uses or currently existing commercial uses involving fishing or other renewable marine or ocean resources within the uses and activities which must meet the planning and review criteria set forth in section 11 of this act. It is not the intent of the legislature, however, to permanently exclude these uses from the requirements of section 11 of this act. If information becomes available which indicates that such uses should reasonably be covered by the requirements of section 11 of this act, the permitting government or agency may require compliance with those requirements, and appeals of that decision shall be handled through the established appeals procedure for that permit or approval.

(6) The state shall participate in federal ocean and marine resource decisions to the fullest extent possible to ensure that the decisions are consistent with the state's policy concerning the use of those resources.

NEW SECTION. Sec. 10. DEFINITIONS. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

(1) "Coastal counties" means Clallam, Jefferson, Grays Harbor, and Pacific counties.

(2) "Coastal waters" means the waters of the Pacific Ocean seaward from Cape Flattery south to Cape Disappointment, from mean high tide seaward two hundred miles.

NEW SECTION. Sec. 11. PLANNING AND PROJECT REVIEW CRITERIA. (1) When the state of Washington and local governments develop plans for the management, conservation, use, or development of natural resources in Washington's coastal waters, the policies in section 9 of this act shall guide the decision-making process.

(2) Uses or activities that require federal, state, or local government permits or other approvals and that will adversely impact renewable resources, marine life, fishing, aquaculture, recreation, navigation, air or water quality, or other existing ocean or coastal uses, may be permitted only if the criteria below are met or exceeded:

(a) There is a demonstrated significant local, state, or national need for the proposed use or activity;

(b) There is no reasonable alternative to meet the public need for the proposed use or activity;

(c) There will be no likely long-term significant adverse impacts to coastal or marine resources or uses;

(d) All reasonable steps are taken to avoid and minimize adverse environmental impacts, with special protection provided for the marine life and resources of the Columbia river, Willapa Bay and Grays Harbor estuaries, and Olympic national park;

(e) All reasonable steps are taken to avoid and minimize adverse social and economic impacts, including impacts on aquaculture, recreation, tourism, navigation, air quality, and recreational, commercial, and tribal fishing;

(f) Compensation is provided to mitigate adverse impacts to coastal resources or uses;

(g) Plans and sufficient performance bonding are provided to ensure that the site will be rehabilitated after the use or activity is completed; and

(h) The use or activity complies with all applicable local, state, and federal laws and regulations.

NEW SECTION. Sec. 12. OIL AND GAS LEASING ANALYSIS. Prior to September 1, 1994, the department of natural resources and the department of ecology, working together and at the direction of the joint select committee on marine and ocean resources, shall complete an analysis of the potential positive and negative impacts of the leasing of state-owned lands which is described in section 9(2) of this act. The department shall consult with the departments of fisheries, wildlife, community development,

and trade and economic development, and with the public, when preparing this analysis. The analysis shall be presented to the legislature no later than September 1, 1994. This analysis shall be used by the legislature in determining whether the oil and gas leasing moratorium contained in section 9 of this act should be extended.

NEW SECTION. Sec. 13. A new section is added to chapter 90.58 RCW to read as follows:

SHORELINE MASTER PLAN REVIEW. (1) The department of ecology, in cooperation with other state agencies and coastal local governments, shall prepare and adopt ocean use guidelines and policies to be used in reviewing, and where appropriate, amending, shoreline master programs of local governments with coastal waters or coastal shorelines within their boundaries. These guidelines shall be finalized by April 1, 1990.

(2) After the department of ecology has adopted the guidelines required in subsection (1) of this section, counties, cities, and towns with coastal waters or coastal shorelines shall review their shoreline master programs to ensure that the programs conform with sections 9 and 11 of this act and with the department of ecology's ocean use guidelines. Amended master programs shall be submitted to the department of ecology for its approval under RCW 90.58.090 by June 30, 1991.

NEW SECTION. Sec. 14. The energy office shall prepare and transmit to the governor and the appropriate legislative committees of the legislature no later than September 1, 1994, a report on liquid fossil fuel supply and demand and on strategies which exist or which can be developed for conserving liquid fossil fuels. This report shall include information on how the conservation of liquid fossil fuels might affect the need for new supplies of liquid fossil fuels, and how conservation might affect the need for oil or gas leasing, exploration, or development off the coast of Washington. This report shall also contain suggestions for implementing the identified conservation strategies. This report shall be used by the legislature in determining whether the oil and gas leasing moratorium contained in section 9 of this act should be extended.

NEW SECTION. Sec. 15. A new section is added to chapter 90.58 RCW to read as follows:

The department of ecology shall consult with affected state agencies, local governments, Indian tribes, and the public prior to responding to federal coastal zone management consistency certifications for uses and activities occurring on the federal outer continental shelf.

NEW SECTION. Sec. 16. The authority for the joint select committee on marine and ocean resources is extended until June 30, 1994. During this time, the committee shall perform the following tasks:

(1) Analyze how the state can maximize the potential positive impacts and minimize the potential negative impacts associated with proposed federal outer continental shelf lands act oil and gas lease sales of Washington's coastal waters.

(2) Analyze the advantages and disadvantages of using the energy facilities—site locations act for making decisions on onshore energy facilities. The committee shall also explore alternative approaches for making these decisions.

(3) Work in coordination with, and provide direction to, the department of natural resources in preparing the analysis described in section 12 of this act.

(4) Complete those tasks assigned to it during the 1987 legislative session in SHCR 4407.

NEW SECTION. Sec. 17. (1) The sum of one hundred eighty thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1991, from the general fund to the department of ecology for the purposes of section 13 of this act. One hundred twenty thousand dollars of this amount, or as much thereof as may be necessary, shall be distributed by the department of ecology to local governments for the purpose of reviewing and amending their shoreline master programs.

(2) The sum of one hundred thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1991, from the general fund to the joint select committee on marine and ocean resources to be used to contract with the departments of ecology and natural resources for purposes of the analysis in section 12 of this act.

(3) To the maximum extent possible, the department of ecology and the department of natural resources shall use federal grant funds instead of the appropriations under this section.

NEW SECTION. Sec. 18. Section captions as used in this act do not constitute any part of the law.

NEW SECTION. Sec. 19. Sections 8 through 12 of this act shall constitute a new chapter in Title 43 RCW and may be known and cited as the ocean resources management act.

NEW SECTION. Sec. 20. 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.

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