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SENATE BILL 6263

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State of Washington

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By Senators Ranker, Hargrove, Delvin, Litzow, Swecker, Rolfes, Schoesler, Kilmer, Fraser, Kohl-Welles, Hobbs, and Hatfield

Read first time 01/16/12. Referred to Committee on Energy, Natural Resources & Marine Waters.

1 AN ACT Relating to facilitating marine management planning;  
2 amending RCW 43.372.020, 43.372.030, 43.372.040, 79.105.150, and  
3 43.372.070; reenacting and amending RCW 79.64.040; and adding a new  
4 section to chapter 79.105 RCW.

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

6 **Sec. 1.** RCW 43.372.020 and 2010 c 145 s 3 are each amended to read  
7 as follows:

8 (1) The office of the governor shall chair a marine interagency  
9 team that is composed of representatives of each of the agencies in the  
10 governor's natural resources cabinet with management responsibilities  
11 for marine waters, including the independent agencies. A  
12 representative from a federal agency with lead responsibility for  
13 marine spatial planning must be invited to serve as a liaison to the  
14 team to help ensure consistency with federal actions and policy. The  
15 team must (~~conduct the assessment authorized in section 4, chapter~~  
16 ~~145, Laws of 2010,~~) assist state agencies under RCW 43.372.030 with  
17 the review and coordination of such planning with their existing and  
18 ongoing planning(~~(7)~~) and conduct the marine management planning  
19 authorized in RCW 43.372.040.

1 (2) The team may not commence any activities authorized under RCW  
2 43.372.030 and 43.372.040 until federal, private, or other ((nonstate))  
3 funding is secured specifically for these activities.

4 **Sec. 2.** RCW 43.372.030 and 2010 c 145 s 5 are each amended to read  
5 as follows:

6 (1) ~~((Concurrently or prior to the assessment and planning  
7 activities provided in section 4, chapter 145, Laws of 2010 and RCW  
8 43.372.040, and))~~ Subject to available federal, private, or other  
9 ((nonstate)) funding for this purpose, all state agencies with marine  
10 waters planning and management responsibilities are authorized to  
11 include marine spatial data and marine spatial planning elements into  
12 their existing plans and ongoing planning.

13 (2) The director of the Puget Sound partnership under the direction  
14 of the leadership council created in RCW 90.71.220 must integrate  
15 marine spatial information and planning provisions into the action  
16 agenda. The information should be used to address gaps or improve the  
17 effectiveness of the spatial planning component of the action agenda,  
18 such as in addressing potential new uses such as renewable energy  
19 projects.

20 (3) The governor and the commissioner of public lands, working with  
21 appropriate marine management and planning agencies, should work  
22 cooperatively with the applicable west coast states, Canadian  
23 provinces, and with federal agencies, through existing cooperative  
24 entities such as the west coast governor's agreement on ocean health,  
25 the coastal and oceans task force, the Pacific coast collaborative, the  
26 Puget Sound federal caucus, and the United States and Canada  
27 cooperative agreement working group, to explore the benefits of  
28 developing joint marine spatial plans or planning frameworks in the  
29 shared waters of the Salish Sea, the Columbia river estuary, and in the  
30 exclusive economic zone waters. The governor and commissioner may  
31 approve the adoption of shared marine spatial plans or planning  
32 frameworks where they determine it would further policies of this  
33 chapter and chapter 43.143 RCW.

34 (4) On an ongoing basis, the director of the department of ecology  
35 shall work with other state agencies with marine management  
36 responsibilities, tribal governments, marine resources committees,  
37 local and federal agencies, and marine waters stakeholders to compile

1 marine spatial information and to incorporate this information into  
2 ongoing plans. This work may be integrated with the comprehensive  
3 marine management plan authorized under RCW 43.372.040 when that  
4 planning process is initiated.

5 (5) All actions taken to implement this section must be consistent  
6 with RCW 43.372.060.

7 **Sec. 3.** RCW 43.372.040 and 2010 c 145 s 6 are each amended to read  
8 as follows:

9 (1) Upon the receipt of federal, private, or other ((nonstate))  
10 funding for this purpose, ~~((together with any required match of state  
11 funding that may be specifically provided for this purpose,))~~ the  
12 marine interagency team shall coordinate the development of a  
13 comprehensive marine management plan for the state's marine waters. The  
14 marine management plan must include marine spatial planning, as well as  
15 recommendations to the appropriate federal agencies regarding the  
16 exclusive economic zone waters.

17 (2) The comprehensive marine management plan may be developed in  
18 geographic segments, and may incorporate or be developed as an element  
19 of existing marine plans, such as the Puget Sound action agenda. If  
20 the team exercises the option to develop the comprehensive marine  
21 management plan in geographic segments, it may proceed with development  
22 and adoption of marine management plans for these geographic segments  
23 on different schedules.

24 (3) The chair of the team may designate a state agency with marine  
25 management responsibilities to take the lead in developing and  
26 recommending to the team particular segments or elements of the  
27 comprehensive marine management plan.

28 ~~((+2))~~ (4) The marine management plan must be developed and  
29 implemented in a manner that:

30 (a) Recognizes and respects existing uses and tribal treaty rights;

31 (b) Promotes protection and restoration of ecosystem processes to  
32 a level that will enable long-term sustainable production of ecosystem  
33 goods and services;

34 (c) Addresses potential impacts of climate change and sea level  
35 rise upon current and projected marine waters uses and shoreline and  
36 coastal impacts;

1 (d) Fosters and encourages sustainable uses that provide economic  
2 opportunity without significant adverse environmental impacts;

3 (e) Preserves and enhances public access;

4 (f) Protects and encourages working waterfronts and supports the  
5 infrastructure necessary to sustain marine industry, commercial  
6 shipping, shellfish aquaculture, and other water-dependent uses;

7 (g) Fosters public participation in decision making and significant  
8 involvement of communities adjacent to the state's marine waters; and

9 (h) Integrates existing management plans and authorities and makes  
10 recommendations for aligning plans to the extent practicable.

11 ~~((3))~~ (5) To ensure the effective stewardship of the state's  
12 marine waters held in trust for the benefit of the people, the marine  
13 management plan must rely upon existing data and resources, but also  
14 identify data gaps and, as possible, procure missing data necessary for  
15 planning.

16 ~~((4))~~ (6) The marine management plan must include but not be  
17 limited to:

18 (a) An ecosystem assessment that analyzes the health and status of  
19 Washington marine waters including key social, economic, and ecological  
20 characteristics and incorporates the best available scientific  
21 information, including relevant marine data. This assessment should  
22 seek to identify key threats to plan goals, analyze risk and management  
23 scenarios, and develop key ecosystem indicators. In addition, the plan  
24 should incorporate existing adaptive management strategies underway by  
25 local, state, or federal entities and provide an adaptive management  
26 element to incorporate new information and consider revisions to the  
27 plan based upon research, monitoring, and evaluation;

28 (b) Using and relying upon existing plans and processes and  
29 additional management measures to guide decisions among uses proposed  
30 for specific geographic areas of the state's marine and estuarine  
31 waters consistent with applicable state laws and programs that control  
32 or address developments in the state's marine waters;

33 (c) A series of maps that, at a minimum, summarize available data  
34 on: The key ecological aspects of the marine ecosystem, including  
35 physical and biological characteristics, as well as areas that are  
36 environmentally sensitive or contain unique or sensitive species or  
37 biological communities that must be conserved and warrant protective  
38 measures; human uses of marine waters, particularly areas with high

1 value for fishing, shellfish aquaculture, recreation, and maritime  
2 commerce; and appropriate locations with high potential for renewable  
3 energy production with minimal potential for conflicts with other  
4 existing uses or sensitive environments;

5 (d) An element that sets forth the state's recommendations to the  
6 federal government for use priorities and limitations, siting criteria,  
7 and protection of unique and sensitive biota and ocean floor features  
8 within the exclusive economic zone waters consistent with the policies  
9 and management criteria contained in this chapter and chapter 43.143  
10 RCW;

11 (e) An implementation strategy describing how the plan's management  
12 measures and other provisions will be considered and implemented  
13 through existing state and local authorities; and

14 (f) A framework for coordinating state agency and local government  
15 review of proposed renewable energy development uses requiring multiple  
16 permits and other approvals that provide for the timely review and  
17 action upon renewable energy development proposals while ensuring  
18 protection of sensitive resources and minimizing impacts to other  
19 existing or projected uses in the area.

20 ((+5)) (7) If the director of the department of fish and wildlife  
21 determines that a fisheries management element is appropriate for  
22 inclusion in the marine management plan, this element may include the  
23 incorporation of existing management plans and procedures and standards  
24 for consideration in adopting and revising fisheries management plans  
25 in cooperation with the appropriate federal agencies and tribal  
26 governments.

27 ((+6)) (8) Any provision of the marine management plan that does  
28 not have as its primary purpose the management of commercial or  
29 recreational fishing but that has an impact on this fishing must  
30 minimize the negative impacts on the fishing. The team must accord  
31 substantial weight to recommendations from the director of the  
32 department of fish and wildlife for plan revisions to minimize the  
33 negative impacts.

34 ((+7)) (9) The marine management plan must recognize and value  
35 existing uses. All actions taken to implement this section must be  
36 consistent with RCW 43.372.060.

37 ((+8)) (10) The marine management plan must identify any

1 provisions of existing management plans that are substantially  
2 inconsistent with the plan.

3 ~~((9))~~ (11)(a) In developing the marine management plan, the team  
4 shall implement a strong public participation strategy that seeks input  
5 from throughout the state and particularly from communities adjacent to  
6 marine waters. Public review and comment must be sought and  
7 incorporated with regard to planning the scope of work as well as in  
8 regard to significant drafts of the plan and plan elements.

9 (b) The team must engage tribes and marine resources committees in  
10 its activities throughout the planning process. In particular, prior  
11 to finalizing the plan, the team must provide each tribe and marine  
12 resources committee with a draft of the plan and invite them to review  
13 and comment on the plan.

14 ~~((10) The team must complete the plan within twenty four months of  
15 the initiation of planning under this section.~~

16 ~~(11))~~ (12) The director of the department of ecology shall submit  
17 the completed marine management plan to the appropriate federal agency  
18 for its review and approval for incorporation into the state's  
19 federally approved coastal zone management program.

20 ~~((12))~~ (13) Subsequent to the adoption of the marine management  
21 plan, the team may periodically review and adopt revisions to the plan  
22 to incorporate new information and to recognize and incorporate  
23 provisions in other marine management plans. The team must afford the  
24 public an opportunity to review and comment upon significant proposed  
25 revisions to the marine management plan.

26 NEW SECTION. Sec. 4. A new section is added to chapter 79.105 RCW  
27 to read as follows:

28 Moneys received by the state from the sale or lease of state-owned  
29 aquatic lands and from the sale of valuable material from state-owned  
30 aquatic lands must be distributed as follows:

31 (1) First, until July 1, 2016, four percent of moneys received must  
32 be deposited in the marine resources stewardship trust account  
33 established under RCW 43.372.070. Thereafter, the amount deposited  
34 must equal two percent;

35 (2) Second, deductions for management costs under RCW 79.64.040 and  
36 payments to towns under RCW 79.115.150(2) must be made; and

1 (3) Third, the remaining moneys must be deposited in the aquatic  
2 lands enhancement account established under RCW 79.105.150.

3 **Sec. 5.** RCW 79.64.040 and 2011 1st sp.s. c 50 s 966 and 2011 c 216  
4 s 16 are each reenacted and amended to read as follows:

5 (1) The board shall determine the amount deemed necessary in order  
6 to achieve the purposes of this chapter and shall provide by rule for  
7 the deduction of this amount from the moneys received from all leases,  
8 sales, contracts, licenses, permits, easements, and rights-of-way  
9 issued by the department and affecting state lands, community forest  
10 trust lands, and aquatic lands, provided that no deduction shall be  
11 made from the proceeds from agricultural college lands.

12 (2) Moneys received as deposits from successful bidders, advance  
13 payments, and security under RCW 79.15.100, 79.15.080, and 79.11.150  
14 prior to December 1, 1981, which have not been subjected to deduction  
15 under this section are not subject to deduction under this section.

16 (3) Except as otherwise provided in subsections (4) and (~~(+6+)~~) (7)  
17 of this section, the deductions authorized under this section shall not  
18 exceed twenty-five percent of the moneys received by the department in  
19 connection with any one transaction pertaining to state lands and  
20 aquatic lands other than second-class tide and shore lands and the beds  
21 of navigable waters, and fifty percent of the moneys received by the  
22 department pertaining to second-class tide and shore lands and the beds  
23 of navigable waters.

24 (4) Deductions authorized under this section for transactions  
25 pertaining to community forest trust lands must be established at a  
26 level sufficient to defray over time the management costs for  
27 activities prescribed in a parcel's management plan adopted pursuant to  
28 RCW 79.155.080, and, if deemed appropriate by the board consistent with  
29 RCW 79.155.090, to reimburse the state and any local entities' eligible  
30 financial contributions for acquisition of the parcel.

31 (5) In the event that the department sells logs using the contract  
32 harvesting process described in RCW 79.15.500 through 79.15.530, the  
33 moneys received subject to this section are the net proceeds from the  
34 contract harvesting sale.

35 (6) For a transaction involving aquatic lands, the moneys subject  
36 to this section are those moneys remaining after the deduction provided

1 under section 4(1) of this act has been applied to moneys received by  
2 the department in connection with any one transaction.

3 (7) During the 2009-2011 fiscal biennium and fiscal year 2012, the  
4 twenty-five percent limitation on deductions set in subsection (3) of  
5 this section may be increased up to thirty percent by the board.

6 **Sec. 6.** RCW 79.105.150 and 2011 2nd sp.s. c 9 s 911 are each  
7 amended to read as follows:

8 (1) After deduction for distributions under section 4(1) of this  
9 act, management costs (~~(as provided in)~~) under RCW 79.64.040, and  
10 payments to towns under RCW 79.115.150(2), all moneys received by the  
11 state from the sale or lease of state-owned aquatic lands and from the  
12 sale of valuable material from state-owned aquatic lands shall be  
13 deposited in the aquatic lands enhancement account which is hereby  
14 created in the state treasury. After appropriation, these funds shall  
15 be used solely for aquatic lands enhancement projects; for the  
16 purchase, improvement, or protection of aquatic lands for public  
17 purposes; for providing and improving access to the lands; and for  
18 volunteer cooperative fish and game projects. During the 2009-2011 and  
19 2011-2013 fiscal biennia, the aquatic lands enhancement account may  
20 also be used for scientific research as part of the adaptive management  
21 process and for developing a planning report for McNeil Island. During  
22 the 2009-2011 and 2011-2013 fiscal biennia, the legislature may  
23 transfer from the aquatic lands enhancement account to the state  
24 general fund such amounts as reflect excess fund balance of the  
25 account. During the 2011-2013 fiscal biennium, the aquatic lands  
26 enhancement account may be used to support the shellfish program, the  
27 ballast water program, and the Puget Sound toxic sampling program at  
28 the department of fish and wildlife, and the knotweed program at the  
29 department of agriculture.

30 (2) In providing grants for aquatic lands enhancement projects, the  
31 recreation and conservation funding board shall:

32 (a) Require grant recipients to incorporate the environmental  
33 benefits of the project into their grant applications;

34 (b) Utilize the statement of environmental benefits, consideration,  
35 except as provided in RCW 79.105.610, of whether the applicant is a  
36 Puget Sound partner, as defined in RCW 90.71.010, whether a project is  
37 referenced in the action agenda developed by the Puget Sound

1 partnership under RCW 90.71.310, and except as otherwise provided in  
2 RCW 79.105.630, and effective one calendar year following the  
3 development and statewide availability of model evergreen community  
4 management plans and ordinances under RCW 35.105.050, whether the  
5 applicant is an entity that has been recognized, and what gradation of  
6 recognition was received, in the evergreen community recognition  
7 program created in RCW 35.105.030 in its prioritization and selection  
8 process; and

9 (c) Develop appropriate outcome-focused performance measures to be  
10 used both for management and performance assessment of the grants.

11 (3) To the extent possible, the department should coordinate its  
12 performance measure system with other natural resource-related agencies  
13 as defined in RCW 43.41.270.

14 (4) The department shall consult with affected interest groups in  
15 implementing this section.

16 (5) After January 1, 2010, any project designed to address the  
17 restoration of Puget Sound may be funded under this chapter only if the  
18 project is not in conflict with the action agenda developed by the  
19 Puget Sound partnership under RCW 90.71.310.

20 **Sec. 7.** RCW 43.372.070 and 2011 c 250 s 2 are each amended to read  
21 as follows:

22 (1) The marine resources stewardship trust account is created in  
23 the state treasury. All receipts from income derived from the  
24 investment of amounts credited to the account, distributions from  
25 transactions involving state-owned aquatic lands provided under section  
26 4 of this act, any grants, gifts, or donations to the state for the  
27 purposes of marine management planning, marine spatial planning, data  
28 compilation, research, or monitoring, and any appropriations made to  
29 the account must be deposited in the account. Moneys in the account  
30 may be spent only after appropriation.

31 (2) Expenditures from the account may only be used for the purposes  
32 of marine management planning, marine spatial planning, research,  
33 monitoring, and implementation of the marine management plan(~~(, and for~~  
34 ~~the restoration or enhancement of marine habitat or resources)~~)).

35 (3) (~~When moneys are deposited into the marine resources~~  
36 ~~stewardship trust account, the governor must provide recommendations on~~

1 ~~expenditures from the account to the appropriate committees of the~~  
2 ~~legislature prior to the next regular legislative session. The~~  
3 ~~recommended projects and activities must be consistent with:~~

4 ~~(a) The allowable uses of the marine resources stewardship trust~~  
5 ~~account; and~~

6 ~~(b) The priority areas identified in))~~ Until July 1, 2016,  
7 expenditures from the account may only be used for the purposes of:

8 (a) Conducting ecosystem assessment and mapping activities in  
9 marine waters consistent with RCW 43.372.040(6) (a) and (c), with a  
10 focus on assessment and mapping activities related to marine resource  
11 uses and developing potential economic opportunities;

12 (b) Developing a marine management plan for the state's coastal  
13 waters as that term is defined in RCW 43.143.020; and

14 (c) Coordination under the west coast governors' agreement on ocean  
15 health, entered into on September 18, 2006, ((and recognized in section  
16 1, chapter 250, Laws of 2011)) and other regional planning efforts  
17 consistent with RCW 43.372.030.

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