
SUBSTITUTE SENATE BILL 6307

State of Washington

60th Legislature

2008 Regular Session

By Senate Water, Energy & Telecommunications (originally sponsored by Senators Rockefeller, Kilmer, Jacobsen, and Kohl-Welles)

READ FIRST TIME 01/31/08.

1 AN ACT Relating to Puget Sound marine managed areas; amending RCW
2 90.71.010, 79.105.210, and 90.71.300; adding a new section to chapter
3 90.71 RCW; adding a new section to chapter 79.105 RCW; adding a new
4 section to chapter 77.12 RCW; and creating new sections.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that many state
7 agencies and local governments administer marine protected areas,
8 preserves, conservation areas, and other similar geographically based
9 area designations that are a valuable means to protect and enhance
10 Puget Sound's marine resources. The legislature further finds that
11 climate change impacts and increased population and development in the
12 Puget Sound basin will place further stresses upon sustaining the
13 biological diversity and ecosystem health of Puget Sound.

14 (2) It is the intent of the legislature that state and local
15 actions intended to protect, conserve, and manage marine life and
16 resources be conducted in a coordinated manner, use the best available
17 science, consider the projected impacts on Puget Sound's marine areas
18 from climate change, and contribute to the recovery of the Puget
19 Sound's environmental health by 2020.

1 (3) It is the purpose of this act to:

2 (a) Create a strategic network of marine managed areas that
3 contribute to conserving the biological diversity and ecosystem health
4 of Puget Sound;

5 (b) Strengthen the coordination of marine managed areas among
6 multiple state agencies and local governments;

7 (c) Provide for management and designation of marine managed areas
8 programs on an ecosystem basis and incorporate the best available
9 scientific information into these programs;

10 (d) Adopt a plan that builds a comprehensive system of marine
11 managed areas, adopts goals for maintaining the diversity of marine
12 life and resources in Puget Sound, and is based upon anticipated
13 threats and stressors such as climate change impacts;

14 (e) Recognize the interrelationship of the marine ecosystem
15 throughout the Pacific Northwest, and the multiple entities, including
16 local, state, provincial, and federal governments, as well as tribal
17 governments and first nations, that are involved in managing marine
18 managed areas; and

19 (f) Adopt codified criteria and procedures applicable to the
20 aquatic reserve program on state-owned aquatic lands.

21 **Sec. 2.** RCW 90.71.010 and 2007 c 341 s 2 are each amended to read
22 as follows:

23 (~~Unless the context clearly requires otherwise,~~) The definitions
24 in this section apply throughout this chapter unless the context
25 clearly requires otherwise.

26 (1) "Action agenda" means the comprehensive schedule of projects,
27 programs, and other activities designed to achieve a healthy Puget
28 Sound ecosystem that is authorized and further described in RCW
29 90.71.300 and 90.71.310.

30 (2) "Action area" means the geographic areas delineated as provided
31 in RCW 90.71.260.

32 (3) "Benchmarks" means measurable interim milestones or
33 achievements established to demonstrate progress towards a goal,
34 objective, or outcome.

35 (4) "Board" means the ecosystem coordination board.

36 (5) "Council" means the leadership council.

1 (6) "Environmental indicator" means a physical, biological, or
2 chemical measurement, statistic, or value that provides a proximate
3 gauge, or evidence of, the state or condition of Puget Sound.

4 (7) "Implementation strategies" means the strategies incorporated
5 on a biennial basis in the action agenda developed under RCW 90.71.310.

6 (8) "Marine managed area" means a named, discrete geographic marine
7 or estuarine area designated by statute, ordinance, resolution, or
8 administrative action, whose designation is intended to protect,
9 conserve, or otherwise manage the marine life and resources within the
10 area.

11 (9) "Nearshore" means the area beginning at the crest of coastal
12 bluffs and extending seaward through the marine photics zone, and to
13 the head of tide in coastal rivers and streams. "Nearshore" also means
14 both shoreline and estuaries.

15 (~~(9)~~) (10) "Panel" means the Puget Sound science panel.

16 (~~(10)~~) (11) "Partnership" means the Puget Sound partnership.

17 (~~(11)~~) (12) "Plan" means the Puget Sound marine managed areas
18 plan developed under section 3 of this act.

19 (13) "Puget Sound" means Puget Sound and related inland marine
20 waters, including all salt waters of the state of Washington inside the
21 international boundary line between Washington and British Columbia,
22 and lying east of the junction of the Pacific Ocean and the Strait of
23 Juan de Fuca, and the rivers and streams draining to Puget Sound as
24 mapped by water resource inventory areas 1 through 19 in WAC
25 173-500-040 as it exists on July 1, 2007.

26 (~~(12)~~) (14) "Puget Sound partner" means an entity that has been
27 recognized by the partnership, as provided in RCW 90.71.340, as having
28 consistently achieved outstanding progress in implementing the 2020
29 action agenda.

30 (~~(13)~~) (15) "Watershed groups" means all groups sponsoring or
31 administering watershed programs, including but not limited to local
32 governments, private sector entities, watershed planning units,
33 watershed councils, shellfish protection areas, regional fishery
34 enhancement groups, marine (~~resource[s]~~) resources committees
35 including those working with the Northwest straits commission,
36 nearshore groups, and watershed lead entities.

37 (~~(14)~~) (16) "Watershed programs" means and includes all
38 watershed-level plans, programs, projects, and activities that relate

1 to or may contribute to the protection or restoration of Puget Sound
2 waters. Such programs include jurisdiction-wide programs regardless of
3 whether more than one watershed is addressed.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 90.71 RCW
5 to read as follows:

6 (1) The partnership shall prepare a Puget Sound marine managed
7 areas plan to coordinate and strengthen all of the marine managed areas
8 programs managed by state agencies and local governments.

9 (2) The chair of the council shall designate a work group to
10 prepare the plan. The work group shall include one or more members of
11 the Puget Sound science panel, one of whom must chair the work group.
12 The work group must include, but not be limited to, state agencies and
13 local governments with regulatory jurisdiction over or that manage
14 marine managed areas including, but not limited to, the department of
15 natural resources, the department of fish and wildlife, the parks and
16 recreation commission, and the department of ecology. The work group
17 shall also include the state biodiversity council, created by executive
18 order 04-02, or the biodiversity council's successor entity. The chair
19 of the council shall also invite representatives of tribal governments,
20 federal agencies, cities, counties, and nongovernmental organizations
21 that have designated or have significant interests in the management of
22 Puget Sound marine managed areas. The chair of the council may also
23 invite representatives from other states and provinces and first nation
24 and tribal governments with interests in marine managed areas in the
25 Pacific Northwest to participate on the work group as observers.

26 (3) The plan must include, but not be limited to:

27 (a) Guidelines for incorporating the best available scientific
28 information when designating and managing marine managed areas;

29 (b) Guidelines for managing areas on an ecosystem basis and for
30 coordinating multiple programs and areas within the same
31 biogeographical regions to achieve ecosystem-based management;

32 (c) Recommendations for adequate levels of funding for the
33 designation, long-term management, and monitoring of the marine managed
34 areas in the network;

35 (d) Strategies to address the projected impacts to marine managed
36 areas from population growth, existing and proposed upland and aquatic
37 lands development, and storm water discharges to Puget Sound;

1 (e) Strategies to prepare for and manage the impacts of climate
2 change, including impacts due to sea level changes, salinity changes,
3 water temperature, increased acidification, and changes in frequency
4 and intensity of precipitation events affecting storm water discharges
5 to marine waters;

6 (f) An adaptive management component in which new information on
7 the progress of implementing management goals for the individual marine
8 managed areas and overall goals for all such areas, and climate change
9 impacts may be considered and integrated into the designation and
10 management of marine managed areas; and

11 (g) Methodologies for synthesizing monitoring results with
12 programmatic goals to inform decision making on subsequent designation
13 and marine managed areas strategies.

14 (4) The plan must also include comprehensive objectives for
15 coordinating existing marine managed areas and designating additional
16 areas to achieve a network of marine managed areas contributing to
17 long-term conservation of important biota and marine ecosystems and
18 recovery of Puget Sound by 2020. In developing the objectives the work
19 group shall rely primarily upon existing plans and objectives relating
20 to conservation of marine life in Puget Sound, and the program plans
21 prepared by state agencies and local governments administering marine
22 managed areas programs. The plan must also consider activities and
23 uses within or adjacent to marine managed areas that are allowed under
24 existing leases of state-owned aquatic lands issued under chapter
25 79.105 RCW.

26 (5) The plan must be completed by July 1, 2010, and submitted to
27 the council for its review and approval. The plan must be incorporated
28 into the Puget Sound action agenda adopted under RCW 90.71.310. The
29 council shall provide for public review and comment on the plan in a
30 manner comparable to the other provisions of the Puget Sound action
31 agenda. The council may, with the assistance of the work group, amend
32 the plan from time to time using public review and comment procedures
33 comparable to those that apply when other elements of the Puget Sound
34 action agenda are revised.

35 **Sec. 4.** RCW 79.105.210 and 2005 c 155 s 143 are each amended to
36 read as follows:

37 (1) The management of state-owned aquatic lands shall preserve and

1 enhance water-dependent uses. Water-dependent uses shall be favored
2 over other uses in state-owned aquatic land planning and in resolving
3 conflicts between competing lease applications. In cases of conflict
4 between water-dependent uses, priority shall be given to uses which
5 enhance renewable resources, water-borne commerce, and the navigational
6 and biological capacity of the waters, and to statewide interests as
7 distinguished from local interests.

8 (2) Nonwater-dependent use of state-owned aquatic lands is a low-
9 priority use providing minimal public benefits and shall not be
10 permitted to expand or be established in new areas except in
11 exceptional circumstances where it is compatible with water-dependent
12 uses occurring in or planned for the area.

13 (3) The department shall consider the natural values of state-owned
14 aquatic lands as wildlife habitat, natural area preserve,
15 representative ecosystem, or spawning area prior to issuing any initial
16 lease or authorizing any change in use. The department may withhold
17 from leasing lands which it finds to have significant natural values,
18 or may provide within any lease for the protection of such values.
19 When withdrawing lands from leasing for the purposes of managing an
20 aquatic reserve, the department shall be guided by the procedures and
21 criteria of section 5 of this act.

22 (4) The power to lease state-owned aquatic lands is vested in the
23 department, which has the authority to make leases upon terms,
24 conditions, and length of time in conformance with the state
25 Constitution and chapters 79.105 through 79.140 RCW.

26 (5) State-owned aquatic lands shall not be leased to persons or
27 organizations which discriminate on the basis of race, color, creed,
28 religion, sex, age, or physical or mental handicap.

29 NEW SECTION. Sec. 5. A new section is added to chapter 79.105 RCW
30 under a new subchapter heading of "aquatic reserve system" to read as
31 follows:

32 (1) The aquatic reserve system is established. The aquatic reserve
33 system is comprised of those areas of state-owned aquatic lands
34 designated by the department prior to the effective date of this
35 section and any areas added to the system by order of the commissioner
36 thereafter.

1 (2) State-owned aquatic lands that have one or more of the
2 following characteristics may be included by order of the commissioner
3 in the system as an aquatic reserve:

4 (a) The lands have been identified as having high priority for
5 conservation, natural systems, wildlife, and low-impact public use
6 values;

7 (b) The lands have flora, fauna, geological, recreational,
8 archaeological, cultural, scenic, or similar features of critical
9 importance and have retained to some degree or reestablished its
10 natural character;

11 (c) The lands provide significant examples of native ecological
12 communities;

13 (d) The lands have significant sites or features threatened with
14 conversion to incompatible uses; and

15 (e) The lands have been identified by the Puget Sound science panel
16 created in RCW 90.71.270 as critical to achieving recovery of Puget
17 Sound by 2020.

18 (3) The commissioner shall adopt procedures for submission of
19 reserve nominations and for public participation in the review of
20 proposed reserves. If, consistent with the best available scientific
21 information, a reserve no longer meets the goals and objectives for
22 which it was designated, and adaptive management has not been
23 successful to meet the goals and objectives, the commissioner may by
24 order modify the reserve boundaries or remove the area from reserve
25 status. The commissioner shall provide public participation procedures
26 for the proposals.

27 (4) In the designation and management of reserves within Puget
28 Sound, as geographically defined in RCW 90.71.010, the commissioner
29 shall be guided by the marine managed areas plan adopted under section
30 3 of this act. Within twenty-four months of the adoption of the marine
31 managed areas plan under section 3 of this act, the department shall
32 complete a review of existing management plans and pending reserve
33 nominations for consistency with the guidelines and recommendations in
34 the marine managed areas plan. The commissioner shall accord
35 substantial weight to any recommendations provided by the Puget Sound
36 partnership regarding the designation and management of reserves within
37 Puget Sound.

1 (5) Where the commissioner determines that management of the taking
2 of fish, shellfish, or wildlife within or adjacent to the reserve would
3 enhance the objectives for which the reserve has been created, the
4 commissioner shall request that the fish and wildlife commission act
5 pursuant to section 6 of this act to adopt supporting rules.

6 (6) The aquatic reserve system must be coordinated with other
7 marine managed areas and regulatory programs. The department shall
8 cooperate with other state agencies and local governments to manage
9 state-owned aquatic lands consistently with the management of uses and
10 activities in the same geographic areas by state parks, the department
11 of fish and wildlife, the department of ecology, and other state
12 agencies. The department shall also provide recommendations to local
13 governments in updating their shoreline master programs and in
14 sponsoring local marine park reserves or voluntary stewardship areas to
15 seek consistent planning and management activities in areas adjacent to
16 designated reserves.

17 (7) State agencies with authority over construction activities or
18 water discharges in state waters or that otherwise implement programs
19 that affect a designated reserve shall give special consideration to
20 increasing protection and reducing and preventing pollution of these
21 areas, consistent with the management objectives of the reserve.

22 NEW SECTION. **Sec. 6.** A new section is added to chapter 77.12 RCW
23 to read as follows:

24 (1) The commission may adopt rules governing the taking of fish,
25 shellfish, or wildlife within or adjacent to a designated aquatic
26 reserve, or other marine managed areas. When requested by the
27 commissioner of public lands to adopt such rules to support the
28 purposes of an aquatic reserve designated by the department of natural
29 resources, the commission shall, within sixty days of receiving the
30 request, file notice of proposed rules with the office of the code
31 reviser under RCW 34.05.320.

32 (2) This section is in addition to and does not limit the
33 commission's authority to establish rules governing the taking of fish,
34 shellfish, or wildlife under any other authority.

35 NEW SECTION. **Sec. 7.** The Puget Sound partnership shall provide
36 the plan required by section 3 of this act to the appropriate

1 committees of the legislature by December 1, 2010, together with its
2 recommendations for further policy legislation and budget
3 recommendations to enhance Puget Sound marine managed areas programs.

4 **Sec. 8.** RCW 90.71.300 and 2007 c 341 s 12 are each amended to read
5 as follows:

6 (1) The action agenda shall consist of the goals and objectives in
7 this section, implementation strategies to meet measurable outcomes,
8 benchmarks, ~~((and))~~ identification of responsible entities, and the
9 marine managed areas plan adopted under section 3 of this act. By
10 2020, the action agenda shall strive to achieve the following goals:

11 (a) A healthy human population supported by a healthy Puget Sound
12 that is not threatened by changes in the ecosystem;

13 (b) A quality of human life that is sustained by a functioning
14 Puget Sound ecosystem;

15 (c) Healthy and sustaining populations of native species in Puget
16 Sound, including a robust food web;

17 (d) A healthy Puget Sound where freshwater, estuary, nearshore,
18 marine, and upland habitats are protected, restored, and sustained;

19 (e) An ecosystem that is supported by ground water levels as well
20 as river and stream flow levels sufficient to sustain people, fish, and
21 wildlife, and the natural functions of the environment;

22 (f) Fresh and marine waters and sediments of a sufficient quality
23 so that the waters in the region are safe for drinking, swimming,
24 shellfish harvest and consumption, and other human uses and enjoyment,
25 and are not harmful to the native marine mammals, fish, birds, and
26 shellfish of the region.

27 (2) The action agenda shall be developed and implemented to achieve
28 the following objectives:

29 (a) Protect existing habitat and prevent further losses;

30 (b) Restore habitat functions and values;

31 (c) Significantly reduce toxics entering Puget Sound fresh and
32 marine waters;

33 (d) Significantly reduce nutrients and pathogens entering Puget
34 Sound fresh and marine waters;

35 (e) Improve water quality and habitat by managing storm water
36 runoff;

- 1 (f) Provide water for people, fish and wildlife, and the
2 environment;
3 (g) Protect ecosystem biodiversity and recover imperiled species;
4 and
5 (h) Build and sustain the capacity for action.

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