
SENATE BILL 6307

State of Washington

60th Legislature

2008 Regular Session

By Senators Rockefeller, Kilmer, Jacobsen, and Kohl-Welles

Read first time 01/15/08. Referred to Committee on Water, Energy & Telecommunications.

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 the
11 combination of climate change impacts and increased population and
12 development in the Puget Sound basin will place further stresses upon
13 sustaining the biological diversity and ecosystem health of Puget
14 Sound.

15 (2) It is the intent of the legislature that state and local
16 actions intended to protect, conserve, and manage marine life and
17 resources be conducted in a coordinated manner, utilize the best
18 available science, consider the projected impacts on Puget Sound's

1 marine areas from climate change, and contribute to the recovery of the
2 Puget Sound's environmental health by 2020.

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

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

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

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

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

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

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

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

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

28 (1) "Action agenda" means the comprehensive schedule of projects,
29 programs, and other activities designed to achieve a healthy Puget
30 Sound ecosystem that is authorized and further described in RCW
31 90.71.300 and 90.71.310.

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

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

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

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

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

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

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

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

16 (~~(9)~~) (10) "Panel" means the Puget Sound science panel.

17 (~~(10)~~) (11) "Partnership" means the Puget Sound partnership.

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

20 (13) "Puget Sound" means Puget Sound and related inland marine
21 waters, including all salt waters of the state of Washington inside the
22 international boundary line between Washington and British Columbia,
23 and lying east of the junction of the Pacific Ocean and the Strait of
24 Juan de Fuca, and the rivers and streams draining to Puget Sound as
25 mapped by water resource inventory areas 1 through 19 in WAC
26 173-500-040 as it exists on July 1, 2007.

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

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

1 (~~(14)~~) (16) "Watershed programs" means and includes all
2 watershed-level plans, programs, projects, and activities that relate
3 to or may contribute to the protection or restoration of Puget Sound
4 waters. Such programs include jurisdiction-wide programs regardless of
5 whether more than one watershed is addressed.

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

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

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

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

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

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

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

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

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

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

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

17 (4) The plan must also include comprehensive objectives for
18 coordinating existing marine managed areas, revisions to existing
19 areas, and designation of additional areas, in order to achieve a
20 network of marine managed areas that will contribute to the long-term
21 conservation of important biota and marine ecosystems. In developing
22 the objectives the work group shall rely primarily upon existing plans
23 and objectives relating to conservation of marine life in Puget Sound,
24 and the program plans prepared by state agencies and local governments
25 administering marine managed areas programs.

26 (5) The plan must be completed by December 31, 2009, and submitted
27 to the council for its review and approval. The plan must be
28 incorporated into the Puget Sound action agenda adopted under RCW
29 90.71.310. The council shall provide for public review and comment on
30 the plan in a manner comparable to the other provisions of the Puget
31 Sound action agenda. The council, with the assistance of the work
32 group, may amend the plan from time to time using public review and
33 comment procedures comparable to that in revising other elements of the
34 Puget Sound action agenda.

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; and

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

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

23 (4) In the designation and management of reserves within Puget
24 Sound, as geographically defined in RCW 90.71.010, the commissioner
25 shall be guided by the marine managed areas plan adopted under section
26 3 of this act. Within twenty-four months of the adoption of the marine
27 managed areas plan under section 3 of this act, the department shall
28 complete a review of existing management plans and pending reserve
29 nominations for consistency with the guidelines and recommendations in
30 the marine managed areas plan. The commissioner shall accord
31 substantial weight to any recommendations provided by the Puget Sound
32 partnership regarding the designation and management of reserves within
33 Puget Sound.

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

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

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

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

19 (1) The commission may adopt rules governing the taking of fish,
20 shellfish, or wildlife within or adjacent to a designated aquatic
21 reserve, or other marine managed areas. When requested by the
22 commissioner of public lands to adopt such rules to support the
23 purposes of an aquatic reserve designated by the department of natural
24 resources, the commission shall act upon the request within one hundred
25 eighty days.

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

29 NEW SECTION. **Sec. 7.** The Puget Sound partnership shall provide
30 the plan required by section 3 of this act to the appropriate
31 committees of the legislature by December 1, 2009, together with its
32 recommendations for further policy legislation and budget
33 recommendations to enhance Puget Sound marine managed areas programs.

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

1 (1) The action agenda shall consist of the goals and objectives in
2 this section, implementation strategies to meet measurable outcomes,
3 benchmarks, (~~and~~) identification of responsible entities, and the
4 marine managed areas plan adopted under section 3 of this act. By
5 2020, the action agenda shall strive to achieve the following goals:

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

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

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

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

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

17 (f) Fresh and marine waters and sediments of a sufficient quality
18 so that the waters in the region are safe for drinking, swimming,
19 shellfish harvest and consumption, and other human uses and enjoyment,
20 and are not harmful to the native marine mammals, fish, birds, and
21 shellfish of the region.

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

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

25 (b) Restore habitat functions and values;

26 (c) Significantly reduce toxics entering Puget Sound fresh and
27 marine waters;

28 (d) Significantly reduce nutrients and pathogens entering Puget
29 Sound fresh and marine waters;

30 (e) Improve water quality and habitat by managing storm water
31 runoff;

32 (f) Provide water for people, fish and wildlife, and the
33 environment;

34 (g) Protect ecosystem biodiversity and recover imperiled species;
35 and

36 (h) Build and sustain the capacity for action.

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