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Capitol Lake Improvement and Protection Association

"Save the Lake – Preserve the Past, Improve the Future."

SB 5265 Authorizing multi-jurisdiction flood control zones.

S-0508.1

SENATE BILL 5265

State of Washington 62nd Legislature 2011 Regular Session

By Senators Swecker, Pridemore, and Prentice

Read first time 01/19/11. Referred to Committee on Government Operations, Tribal Relations & Elections.

1 AN ACT Relating to flood control zone districts; amending RCW
2 36.93.020, 86.15.010, 86.15.035, and 86.15.080; and adding a new
3 section to chapter 86.15 RCW.

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

5 NEW SECTION. Sec. 1. A new section is added to chapter 86.15 RCW
6 to read as follows:

7 (1) When a watershed comprises territory within two or more
8 counties or reservations of federally recognized Indian tribes, the
9 boards of any or all of those counties, together with the appropriate
10 authorities of any federally recognized Indian tribes choosing to
11 participate, may create a multijurisdiction zone by execution of a
12 formation agreement that specifies the following:

13 (a) The boundaries of the multijurisdiction zone;

14 (b) The general flood control needs or requirements within the
15 multijurisdiction zone;

16 (c) The number of supervisors, the qualifications for supervisors,
17 the length of their terms, and whether supervisors will be appointed or
18 elected by district voters, or a combination of both, including:

19 (i) The method of appointing any supervisor; and

1 (ii) For elected supervisors, whether (A) a supervisor shall be
 2 elected by all the voters within the multijurisdiction zone; (B)
 3 whether a supervisor shall be elected by the voters of voting districts
 4 with substantially equal numbers of voters; or (C) whether voting
 5 districts with substantially equal numbers of voters shall each
 6 nominate a candidate to be voted upon by all the voters within the
 7 multijurisdiction zone;
 8 (d) Manner in which actions are taken by the supervisors;
 9 (e) The treasurer of a county participating in the
 10 multijurisdiction zone that will hold the funds of the
 11 multijurisdiction zone and carry out the responsibilities described in
 12 RCW 86.15.130;
 13 (f) The engineer of the multijurisdiction zone who, subject to
 14 subsection (10) of this section, must be the engineer of a county
 15 participating in the multijurisdiction zone and who must carry out the
 16 responsibilities described in RCW 86.15.060 if so provided in the
 17 agreement;
 18 (g) The size, composition, and method of selecting members of the
 19 advisory committee provided for pursuant to subsection (11) of this
 20 section;
 21 (h) The time and manner in which the supervisors adopt a budget
 22 and, if desired, the policies and processes governing the adoption of
 23 rates, charges, taxes and assessments, and policies governing
 24 expenditures;
 25 (i) If the boundaries of a multijurisdiction zone will overlap
 26 another zone that is not a multijurisdiction zone, a provision
 27 prescribing how any ad valorem property tax levies are to be
 28 established so that the combined levies in the overlapping zones will
 29 never exceed the amount authorized under RCW 86.15.160(3);
 30 (j) Any other provisions deemed necessary and appropriate by the
 31 jurisdictions executing the formation agreement.
 32 The failure of a formation agreement to include each and every one
 33 of the elements described in subsection (1) of this section shall not
 34 render the agreement invalid. As soon as practicable after becoming
 35 aware of the missing element or elements, the jurisdictions
 36 participating within a multijurisdiction zone provide for the missing
 37 elements by amending the formation agreement in the manner described in
 38 subsection (2) of this section.

1 (2) The formation agreement described in subsection (1) of this
2 section must be approved by resolution of the board of each of the
3 counties participating in the multijurisdiction zone after holding a
4 public hearing on that formation, which must be not more than thirty
5 days after the adoption of such resolution setting the hearing date.
6 Thereafter, a board may by resolution accept or reject the agreement
7 and the formation of the multijurisdiction zone. Any federally
8 recognized Indian tribe choosing to participate in a multijurisdiction
9 zone may approve its participation by action of the appropriate
10 authority of that tribe. The formation agreement may be amended from
11 time to time by resolution of the board of each county participating in
12 the multijurisdiction zone and by appropriate tribal-authorizing
13 action, except that amendments to boundaries must be made pursuant to
14 subsection (13) of this section.

15 (3) Any federally recognized Indian tribe with reservation land
16 located in the proposed multijurisdiction zone must be provided the
17 option to participate in the multijurisdiction zone, and each tribe
18 that chooses to participate may appoint a supervisor to the
19 multijurisdiction board. Land held in trust for any federally
20 recognized Indian tribe or enrolled tribal member that is within the
21 boundaries of a multijurisdiction zone shall not be treated as part of
22 that multijurisdiction zone for any purpose unless that tribe has
23 chosen to participate in the multijurisdiction zone.

24 (4) Notwithstanding RCW 86.15.023, the boundaries of a
25 multijurisdiction zone may overlap another zone that is not a
26 multijurisdiction zone, but the combined annual ad valorem property tax
27 levy must not exceed the amount authorized under RCW 86.15.160(3).

28 (5) The board of supervisors of a multijurisdiction zone will
29 consist of a number of members provided in the formation agreement,
30 including any tribal supervisors. The length of terms of elected
31 supervisors must be determined substantially in accordance with RCW
32 86.15.050(7). Appointed supervisors serve at the pleasure of the
33 authority that appointed such supervisor. Members of the boards of the
34 counties may serve as supervisors. If an appointed supervisor is not
35 a member of the board of the county, then that appointed supervisor may
36 be compensated pursuant to the provisions of RCW 86.15.055.

37 (6) Each elected supervisor of a multijurisdiction zone serves
38 until his or her successor is elected and qualified and assumes office.

1 Vacancies in elected supervisor positions may occur and must be filled
2 as provided by chapter 42.12 RCW and the formation agreement. The
3 costs and expenses directly related to the election of supervisors must
4 be borne by the multijurisdiction zone.

5 (7) Except as otherwise provided in this section, RCW 86.15.001,
6 86.15.020, 86.15.023, 86.15.025, 86.15.030, 86.15.050, 86.15.070,
7 86.15.130, and 86.15.200 do not apply to multijurisdiction zones. All
8 other provisions, powers, and limitations that apply to zones or flood
9 control zone districts under this chapter or other applicable law apply
10 to multijurisdiction zones.

11 (8) The funds of the multijurisdiction zone must be held by the
12 county treasurer designated in the agreement and such treasurer has the
13 duties and authority of a zone treasurer as set forth in RCW 86.15.130.
14 The administration of the affairs of a multijurisdiction zone are
15 placed in the county engineer, also designated in the agreement, who
16 has the duties of a zone engineer as set forth in RCW 86.15.060. If
17 the county with the designated treasurer or engineer of the
18 multijurisdiction zone withdraws from the multijurisdiction zone
19 pursuant to this section or is not designated in the formation
20 agreement, then the county treasurer or the county engineer of the
21 county remaining with the largest amount of area in the
22 multijurisdiction zone are the treasurer or engineer of the
23 multijurisdiction zone until the remaining counties participating in
24 the multijurisdiction zone approve a new treasurer or engineer.

25 (9) The supervisors may also provide for administration of the
26 affairs of the zone by other than the designated county engineer,
27 pursuant to the authority established in RCW 86.15.095, to hire
28 employees, staff, and services and to enter into contracts. The
29 multijurisdiction zone engineer or other administrator may appoint such
30 deputies and engage such employees, specialists, and technicians as may
31 be required by the multijurisdiction zone and as authorized by the
32 multijurisdiction zone's budget. Subject to the approval of the
33 supervisors, the engineer or other administrator may organize, or
34 reorganize as required, the zone into such departments, divisions, or
35 other administrative relationships as he or she deems necessary to its
36 efficient operation.

37 (10) The budget adopted by the supervisors of a multijurisdiction

1 zone must be in accordance with the provisions of RCW 86.15.140 unless
2 otherwise provided in the formation agreement.

3 (11) As set forth in the formation agreement, the supervisors of a
4 multijurisdiction zone and/or the boards of jurisdictions participating
5 in a multijurisdiction zone must appoint members of a multijurisdiction
6 zone advisory committee if the committee is established in the
7 agreement. Members of an advisory committee serve without pay and
8 shall serve at the pleasure of the appointing authority.

9 (12) Subject to the terms of the formation agreement, and subject
10 to the terms of any other contract or bond covenant, the board of each
11 jurisdiction participating in a multijurisdiction zone may withdraw
12 pursuant to a resolution adopted by such board. A federally recognized
13 tribe may withdraw by action of the appropriate authority of that
14 tribe. Before withdrawing, the board of any county must conduct a
15 public hearing notice of which shall be given as provided by RCW
16 36.32.120(7). If all jurisdictions participating within a
17 multijurisdiction zone withdraw, the multijurisdiction zone is then
18 abolished. Any indebtedness of a multijurisdiction zone must not be
19 impaired by any withdrawal, and any county withdrawing must continue to
20 levy and collect all necessary taxes and assessments until such debts
21 are retired from property within the multijurisdiction zone.

22 (13) Territory within a watershed but within a county or within the
23 jurisdiction of a federally recognized tribe that did not initially
24 participate in formation of a multijurisdiction zone may later be
25 included within a multijurisdiction zone upon approval of the board of
26 that county or upon approval by the appropriate authority of that tribe
27 consistent with subsection (2) of this section, together with an
28 amendment of the agreement approved by the boards of all of the
29 counties and the appropriate authorities of all the tribes within the
30 multijurisdiction zone. Prior to inclusion of that territory, the
31 public hearing described in subsection (2) of this section is required
32 only in a county that did not initially participate in formation of the
33 multijurisdiction zone.

34 (14) Existing zones formed under this chapter may become combined
35 into and become a new multijurisdiction zone and be entitled to all the
36 powers and privileges available under this section if: (a) The zones
37 have entered into an interlocal agreement under RCW 86.15.035 or
38 86.15.080(8) and, if necessary, amend, restate, or replace the

1 interlocal agreement so that it materially complies with the
2 requirements of this section; (b) the boards of counties participating
3 in the agreement have passed resolutions approving the conversion of
4 the county zone into the new multijurisdiction zone; and (c) the
5 resolutions and amended, restated, or replaced agreements also provide
6 that all rights and obligations of the zone formally existing under
7 this chapter shall thereafter be the obligations of the new
8 multijurisdiction zone created under this section. Upon compliance
9 with those requirements, the new multijurisdiction zone is a successor
10 of the former zone for all purposes, and all rights and obligations of
11 the former zone shall transfer to the new multijurisdiction zone and
12 the obligations are treated as having been incurred, entered into, or
13 issued by the new multijurisdiction zone; those obligations remain in
14 full force and effect and continue to be enforceable in accordance with
15 their terms.

16 **Sec. 2.** RCW 36.93.020 and 1999 c 153 s 44 are each amended to read
17 as follows:

18 As used herein:

19 (1) "Governmental unit" means any incorporated city or town,
20 metropolitan municipal corporation, or any special purpose district as
21 defined in this section.

22 (2) "Special purpose district" means any water-sewer district, fire
23 protection district, drainage improvement district, drainage and diking
24 improvement district, flood control zone district (other than a
25 multijurisdiction flood control zone district), irrigation district,
26 metropolitan park district, drainage district, or public utility
27 district engaged in water distribution.

28 (3) "Board" means a boundary review board created by or pursuant to
29 this chapter.

30 **Sec. 3.** RCW 86.15.010 and 1983 c 315 s 11 are each amended to read
31 as follows:

32 The definitions set forth in this section apply through this
33 chapter.

34 (1) "Board" means the county legislative authority.

35 (2) "Flood control improvement" means any works, projects, or other

1 facilities necessary for the control of flood waters within the county
2 or any zone or zones.

3 (3) "Flood waters" and "storm waters" means any storm waste or
4 surplus waters, including surface water, wherever located within the
5 county or a zone or zones where such waters endanger public highways,
6 streams and water courses, harbors, life, or property.

7 (4) "Participating zones" means two or more zones found to benefit
8 from a single flood control improvement or storm water control
9 improvement.

10 (5) "Storm water control improvement" means any works, projects, or
11 other facilities necessary to control and treat storm water within the
12 county or any zone or zones.

13 (6) "Supervisors" means the board of supervisors, or governing
14 body, of a zone.

15 (7) "Zones" and "multijurisdiction zones" mean((s)) flood control
16 zone districts ((which)) and multijurisdiction flood control zone
17 districts, respectively, and are quasi-municipal corporations of the
18 state of Washington created by this chapter.

19 **Sec. 4.** RCW 86.15.035 and 2003 c 327 s 19 are each amended to read
20 as follows:

21 In addition to the authority provided in this chapter, flood
22 control zone districts may participate in and expend revenue on
23 cooperative watershed management arrangements and actions, including
24 ((watershed management partnerships)) without limitation those under
25 chapter 39.34 RCW ((39.34.210)), under this act, and under other
26 intergovernmental agreements authorized by law, for purposes of water
27 supply, water quality, and water resource and habitat protection and
28 management.

29 **Sec. 5.** RCW 86.15.080 and 2010 c 46 s 2 are each amended to read
30 as follows:

31 A zone or participating zone may:

32 (1) Exercise all the powers and immunities vested in a county for
33 flood water or storm water control purposes under the provisions of
34 chapters 86.12, 86.13, 36.89, and 36.94 RCW: PROVIDED, That in
35 exercising such powers, all actions shall be taken in the name of the

1 zone and, unless otherwise provided by agreement with a county or other
 2 public entity, title to all property or property rights shall vest in
 3 the zone;

4 (2) Plan, construct, acquire, repair, maintain, and operate all
 5 necessary equipment, facilities, improvements, and works to control,
 6 conserve, and remove flood waters and storm waters and to otherwise
 7 carry out the purposes of this chapter including, but not limited to,
 8 protection of the quality of water sources;

9 (3) Take action necessary to protect life and property within the
 10 district from flood water damage, including in the context of an
 11 emergency, as defined in RCW 38.52.010, using covered volunteer
 12 emergency workers, as defined in RCW 38.52.010 and 38.52.180(5)(a),
 13 subject to and in accordance with the terms of RCW 38.52.180;

14 (4) Control, conserve, retain, reclaim, and remove flood waters and
 15 storm waters, including waters of lakes and ponds within the district,
 16 and dispose of the same for beneficial or useful purposes under such
 17 terms and conditions as the board may deem appropriate, subject to the
 18 acquisition by the board of appropriate water rights in accordance with
 19 the statutes;

20 (5) Acquire necessary property, property rights, facilities, and
 21 equipment necessary to the purposes of the zone by purchase, gift, or
 22 condemnation pursuant to chapter 8.08 RCW: PROVIDED, That property of
 23 municipal corporations may not be acquired without the consent of such
 24 municipal corporation;

25 (6) Sue and be sued in the name of the zone;

26 (7) Acquire or reclaim lands when incidental to the purposes of the
 27 zone and dispose of such lands as are surplus to the needs of the zone
 28 in the manner provided for the disposal of county property in chapter
 29 36.34 RCW;

30 (8) Cooperate with ~~((or))~~, join with, or contract with the state of
 31 Washington, United States, another state, any agency, corporation or
 32 political subdivision of the United States or any state, Canada, any
 33 federally recognized Indian tribe, or any private corporation or
 34 individual for the purposes of this chapter;

35 (9) Accept funds ~~((or))~~, property, property rights or other assets
 36 or franchise rights by loan, grant, gift, or otherwise from the United
 37 States, the state of Washington, or any other public or private source;

1 (10) Remove debris, logs, or other material which may impede the
2 orderly flow of waters in streams or water courses: PROVIDED, That
3 such material shall become property of the zone and may be sold for the
4 purpose of recovering the cost of removal: PROVIDED FURTHER, That
5 valuable material or minerals removed from public lands shall remain
6 the property of the state;

7 (11) Provide grant funds to political subdivisions of the state
8 that are located within the boundaries of the zone, so long as the use
9 of the grant funds is within the purposes authorized under this
10 chapter;

11 (12) Lease, convey, transfer, assign, or otherwise make available
12 any real or personal property or property rights, other assets, or
13 franchise rights, with or without compensation, to the state of
14 Washington or to any city, county, special purpose district, other
15 local government entity, or federally recognized Indian tribe, to carry
16 out the purposes authorized under this chapter.

--- END ---

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SB 5265 - H COMM AMD

By Committee on Local Government

1 On page 2, line 8, after "supervisors" insert ", subject to the
2 restrictions in subsection (4) of this section.

3 (e) Each supervisor appointed or elected under this section must
4 represent an identified area of land that is a specified jurisdiction
5 within the multijurisdictional zone;

6 (f) "

7

8 Renumber the remaining subsections consecutively and correct any
9 internal references accordingly.

10

11 On page 3, line 24, after "(4)" insert "A supervisor is eligible
12 to vote on policies related to the imposition of rates, charges,
13 taxes, and assessments if the supervisor represents a jurisdiction
14 that:

15 (a) Is subject to the imposition of the rates, charges, taxes, and
16 assessments of the multijurisdiction zone;

17 (b) Agrees to subject itself to the imposition of these rates,
18 charges, taxes, and assessments of the multijurisdiction zone; or

19 (c) Agrees to contribute an amount commensurate to what its
20 obligation would be if these rates, charges, taxes, and assessments
21 were imposed on all lands within its jurisdiction.

22 (5) "

23

24 Renumber the remaining subsections consecutively and correct any
25 internal references accordingly.

26

EFFECT: Establishes that a supervisor serving on the governing

5265 AMH LG EMER 084

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board of a multijurisdiction zone must represent an identified jurisdiction within the multijurisdiction zone. Provides that only a supervisor who represents a jurisdiction that is subject to the imposition of the rates, charges, taxes, and assessments of the multijurisdiction zone, or who represents a jurisdiction that agrees to contribute a commensurate amount, is eligible to vote on policies related to the imposition of rates, charges, taxes, and assessments by the multijurisdiction zone.

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