
ENGROSSED SUBSTITUTE HOUSE BILL 1836

State of Washington

52nd Legislature

1991 Regular Session

By House Committee on Natural Resources & Parks (originally sponsored by Representatives Belcher, Beck, Scott, Jacobsen, Phillips, Ferguson, Rasmussen, Fraser, Brumsickle, Sprenkle, Rust, Spanel, Leonard, Holland, Dorn, Forner, Franklin, Roland, R. Johnson, R. Fisher, H. Myers, R. King, Wang, Winsley, Nelson, Brough and Anderson). Read first time February 27, 1991.

1 AN ACT Relating to comprehensive river management; adding a new
2 section to chapter 43.21A RCW; adding a new chapter to Title 43 RCW;
3 and repealing RCW 79.72.010, 79.72.020, 79.72.030, 79.72.040,
4 79.72.050, 79.72.060, 79.72.070, 79.72.080, 79.72.090, 79.72.100, and
5 79.72.900.

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

7 NEW SECTION. **Sec. 1.** INTENT. The legislature finds that (1) the
8 rivers of the state are a great economic, cultural, and recreational
9 resource; (2) these rivers are facing increasing pressure and conflicts
10 from growth and a multitude of uses and activities both within the
11 river and its drainage; and (3) the resolution of these pressures and
12 conflicts should be based upon a collaborative planning process rather
13 than adding to the regulatory burden of landowners. Therefore, it is
14 the intent of the legislature to establish a program that will
15 encourage a collaborative process bringing together users, landowners,

1 local governments, and state government to develop a long-range plan
2 for the management and preservation of the state's rivers and the
3 various uses made of those rivers. Furthermore, it is the intent of
4 the legislature that this program should provide to the greatest extent
5 possible for the development of plans and management of river systems
6 at the local level.

7 NEW SECTION. **Sec. 2.** DEFINITIONS. Unless the context clearly
8 requires otherwise, the definitions in this section apply throughout
9 this chapter.

10 (1) "Commission" means the state parks and recreation commission
11 created under RCW 43.51.020.

12 (2) "Director" means the director of the commission appointed under
13 RCW 43.51.060.

14 (3) "Local governments" means municipal corporations, quasi-
15 municipal corporations, counties, and tribes.

16 (4) "Model rivers" means rivers or river areas designated under
17 section 8 of this act.

18 (5) "Protected rivers" means rivers or river areas designated under
19 section 5 or 6 of this act.

20 (6) "River area" means a river and land surrounding the river as
21 defined by a protected or model river management plan developed under
22 section 5, 6, or 8 of this act.

23 NEW SECTION. **Sec. 3.** MODEL RIVERS PROGRAM. (1) There is created
24 within the parks and recreation commission the model rivers program.
25 The purpose of the program is to:

26 (a) Promote river management programs that enhance a river's
27 natural or inherent qualities;

1 (b) Enhance the economic, recreational, cultural, and natural uses
2 that rivers provide to the citizens of Washington state;

3 (c) Promote and manage programs that balance the various uses of
4 rivers;

5 (d) Protect the best interests of private landowners while
6 maintaining the health of the river;

7 (e) Encourage citizen and government stewardship of rivers to care
8 for and monitor river resources;

9 (f) Encourage the use and coordination of existing statutes and
10 agency programs rather than create new programs or rules;

11 (g) Assist local governments to preserve and enhance their river
12 areas; and

13 (h) Rehabilitate rivers that do not meet water quality standards.

14 (2) The commission shall:

15 (a) Monitor the management of protected rivers, model rivers,
16 degraded rivers, and rivers that receive technical assistance;

17 (b) Provide assistance in development of management plans for
18 protected rivers and model rivers;

19 (c) Notify and work with local interests, local governments, and
20 appropriate state agencies to determine the appropriate management
21 plans for protected rivers; and

22 (d) Report to the legislature by January 1st of odd-numbered years
23 on the commission's activities under this chapter and the status of
24 rivers in the state.

25 NEW SECTION. **Sec. 4.** PROTECTED RIVERS. (1) The commission shall
26 prepare a list of rivers eligible for designation as protected rivers.
27 Rivers eligible for such designation shall be limited to:

28 (a) Rivers designated as off-limits in the state hydroelectric
29 power resource protection plan; and

1 (b) Seventeen of the eighteen candidate rivers excluding the Kettle
2 river listed in the 1988 state parks scenic rivers assessment.

3 (2) A river may be included on the list under subsection (1) of
4 this section only if the commission finds that the following conditions
5 exist:

6 (a) The river or the portion of the river to be designated is free
7 flowing;

8 (b) The river has exceptional natural, scenic, historic,
9 ecological, cultural, or recreational features;

10 (c) The river is without artificial diversions that hinder
11 recreational use;

12 (d) The river is relatively unmodified by riprapping and other
13 stream bank intrusions;

14 (e) There is water of sufficient quality and quantity to warrant
15 protected river designation;

16 (f) The river is in a relatively natural condition with adequate
17 open space; and

18 (g) The river has publicly owned land along its length.

19 (3) When a river is listed under subsection (1) of this section,
20 the director or the director's designee shall:

21 (a) Notify the appropriate local governments of the listing;

22 (b) Explain the significance of the eligibility for designation;
23 and

24 (c) Explain how to develop a protected river management plan under
25 sections 5 and 6 of this act.

26 (4) Upon designation of a river under sections 5 or 6 of this act,
27 all state government agencies and local governments are hereby directed
28 to pursue policies with regard to their respective activities,
29 functions, powers and duties that are designed to conserve and enhance
30 the conditions of rivers that have been included in a protected river

1 management plan, in accordance with the management policies and the
2 rules adopted by the commission for such rivers. Local agencies are
3 directed to pursue such policies with respect to all lands in the river
4 area owned or leased by such local agencies.

5 NEW SECTION. **Sec. 5.** PROTECTED RIVERS--LOCAL MANAGEMENT PLAN.

6 (1) A local government or a group of local governments may elect to
7 develop a local management plan for a river or a portion of a river
8 that is (a) within its jurisdiction and (b) listed under section 4(1)
9 of this act. The local government or group of local governments shall
10 appoint a river council under section 9 of this act to assist in the
11 development, implementation, and review of the management plan.
12 Management plans developed under this section shall satisfy the
13 requirements of section 7 of this act.

14 (2) Upon completion, the local management plan shall be submitted
15 to the commission for adoption or rejection. No plan may be adopted
16 unless the commission finds that the plan is consistent with the
17 requirements of section 7 of this act. If rejected, the commission
18 shall notify the local government or group of local governments of any
19 action required in order to gain approval. Upon approval of the plan,
20 the commission shall request that the legislature designate the river
21 as a locally managed protected river.

22 NEW SECTION. **Sec. 6.** PROTECTED RIVERS--STATE MANAGEMENT PLAN.

23 (1) The commission may develop and adopt a state management plan for
24 any river or a portion of a river listed under section 4(1) of this act
25 for which (a) no local management plan has been developed under section
26 5 of this act or (b) a local management plan developed under section 5
27 of this act has been disapproved. If the commission elects to develop
28 a management plan, the commission shall appoint a river council under

1 section 9 of this act to assist in the development, implementation, and
2 review of the management plan. Management plans developed under this
3 section shall satisfy the requirements of section 7 of this act.

4 (2) Upon completion of the plan by the commission, the commission
5 shall request that the legislature designate the river as a state-
6 managed protected river.

7 NEW SECTION. **Sec. 7.** PROTECTED RIVER MANAGEMENT PLANS. (1) A
8 protected river management plan shall consist of an initial assessment
9 and, based upon the results of the assessment, the development of
10 management goals and objectives. The initial assessment shall consist
11 of:

12 (a) An inventory of the river's natural resources including but not
13 limited to, fisheries, wildlife, forestry, recreation, historical, and
14 cultural resources; and

15 (b) An evaluation of existing and potential land uses, existing
16 plans that affect activity along the river, public use, and methods for
17 protection of private property rights.

18 (2) The commission shall establish the criteria and components of
19 protected river management plans developed under sections 5 and 6 of
20 this act. These criteria shall include, but not be limited to:

21 (a) Maintenance of stream flows that protect the outstanding
22 recreational, natural, and cultural values of the river;

23 (b) Protection of water quality;

24 (c) Management of the river by selective use of riprapping and
25 other stream bank protection to protect existing structures;

26 (d) Maintenance of a relatively natural setting and adequate open
27 space on public lands within the area subject to the management plan;

28 (e) Prohibiting dams or impoundments that would degrade the river's
29 natural qualities;

1 (f) Protecting the interests of landowners while maintaining the
2 health of the river; and

3 (g) Identification of the river area that is subject to the
4 management plan.

5 NEW SECTION. **Sec. 8.** MODEL RIVER DESIGNATION. (1) The goal of
6 the model river designation is to maintain or improve river quality on
7 multiple use rivers by evaluating and assessing existing and potential
8 uses along the river area, and developing a model river management plan
9 for the river. Uses of a model river may include hydropower,
10 agriculture, fishing, wildlife, recreation, culture, forestry, and
11 public safety.

12 (2) A local government or a group of local governments with
13 jurisdiction in the vicinity of the river may petition the commission
14 to have a river designated as a model river. Such a petition may
15 include a request for matching funds to finance the development of a
16 model river management plan under this section. A petitioner,
17 submitting a petition under this section, shall:

18 (a) Demonstrate a firm interest in developing a management plan;

19 (b) Agree to establish goals and objectives to achieve multiple use
20 protection of the river;

21 (c) Agree to appoint a river council that is broadly representative
22 as required under section 9 of this act; and

23 (d) Agree, if funding is being requested, to provide or secure a
24 minimum of fifty percent matching funds for the development of a
25 management plan.

26 (3) The commission shall review and prioritize petitions submitted
27 under subsection (2) of this section on the basis of the following
28 criteria:

1 (a) The extent to which the river possesses natural, cultural,
2 recreational, or economic value of regional or state-wide significance;

3 (b) The extent to which the river is in need of a management plan
4 to balance competing demands on the river;

5 (c) The extent to which there is a threat to the river environment
6 by overuse or uncontrolled growth;

7 (d) The extent to which the petitioners have considered and are
8 likely to achieve their goals; and

9 (e) The availability of funding.

10 The commission may award matching funds to the petitioner for the
11 development of a model river management plan based upon the priorities
12 established under this subsection. Funds may be awarded only if the
13 petitioner guarantees to provide a minimum of fifty percent matching
14 funds.

15 (4) The petitioner shall appoint a river council under section 9 of
16 this act to assist in the development, implementation, and review of
17 the management plan. The commission shall provide technical assistance
18 to the extent possible.

19 (5) The river council appointed under subsection (4) of this
20 section shall establish:

21 (a) The river area subject to the management plan; and

22 (b) The criteria and components of the river management plan
23 consistent with the purposes of this section.

24 (6) A model river management plan shall consist of an initial
25 assessment and, based upon the results of the assessment, management
26 goals, and objectives. The initial assessment shall consist of:

27 (a) An inventory of the river's natural resources including but not
28 limited to, fisheries, wildlife, forestry, recreation, historical, and
29 cultural resources; and

1 (b) An evaluation of existing and potential land uses, existing
2 plans that affect activity along the river, public use, and methods for
3 protection of private property rights.

4 (7) Upon completion, the model river management plan shall be
5 submitted to the commission for approval or rejection.

6 The commission may reject a plan only if it finds that the plan is
7 not consistent with the purposes of this chapter by maintaining or
8 improving the quality of the river while providing for coordinated,
9 multiple use of the river area.

10 If rejected, the commission shall notify the petitioner of any
11 action required in order to gain approval. Upon approval of the
12 management plan, the commission shall request that the legislature
13 designate the river as a model river.

14 NEW SECTION. **Sec. 9.** RIVER COUNCILS. (1) There may be only one
15 river council appointed in association with any single management plan
16 developed under section 5, 6, or 8 of this act.

17 (2) A river council shall be broadly representative of all
18 interests associated with the river including, but not limited to:
19 Landowners, recreational and environmental interest groups, business,
20 local governments, and state agencies. The duties of a river council
21 shall include assisting in the development, implementation, and review
22 of the management plan.

23 NEW SECTION. **Sec. 10.** TECHNICAL COMMITTEES. The commission may
24 appoint technical committees to assist in implementation of this
25 chapter. When establishing technical committees the commission shall
26 ensure that appropriate public and private interests are represented.
27 The technical committees shall meet at the times and places determined
28 by the director.

1 NEW SECTION. **Sec. 11.** RIVERS ASSISTANCE COMPONENT. Local
2 governments with a single critical issue or multiple issues along the
3 river that do not require model river management plans may petition the
4 commission for assistance. If, after a preliminary evaluation of the
5 issue or issues, the commission determines that a management plan is
6 not required, then the commission may provide assistance by referring
7 the request to the state agency capable of providing assistance or
8 requesting participants in the rivers assistance team to make an on-
9 site evaluation and provide the local government with a recommendation
10 for resolving the issue or issues.

11 NEW SECTION. **Sec. 12.** RIVERS ASSISTANCE TEAM. (1) Upon request
12 for technical assistance from local persons or interests or a local
13 government the commission may identify volunteer experts from the
14 public and private sector select who are willing to serve on a rivers
15 assistance team.

16 (2) The rivers assistance team shall provide technical assistance,
17 consultations, and on-site evaluations. The rivers assistance team may
18 issue a report of findings if deemed appropriate by members of the
19 team.

20 (3) Participants in on-site evaluations shall receive compensation
21 in accordance with RCW 43.03.220 and be reimbursed for travel expenses
22 as provided for in RCW 43.03.050 and 43.03.060.

23 NEW SECTION. **Sec. 13.** A new section is added to chapter 43.21A
24 RCW to read as follows:

25 DEGRADED RIVERS. (1) The department shall submit a biennial report
26 to the parks and recreation commission on rivers in the state monitored
27 for water quality standards by the department under chapter 90.48 RCW.
28 The report shall include: Identification of degraded rivers;

1 identification of rivers in danger of becoming degraded;
2 recommendations to the commission on preventing degradation of rivers;
3 and plans or programs implemented to improve water quality.

4 (2) For the purposes of this section, "degraded rivers" are rivers
5 that do not meet state surface water quality standards and are
6 identified by the department as water quality limited.

7 NEW SECTION. **Sec. 14.** WATER RIGHTS--EMINENT DOMAIN. This chapter
8 shall not (1) affect or impair any water right or permit existing on
9 the effective date of this section; (2) be construed to impose any
10 special limitations on the issuance and development of water rights
11 relating to a critical public water supply; (3) prohibit the state, any
12 state government agency, or local government from carrying out its duty
13 to protect the public health and welfare by preventing or minimizing
14 flood damage as defined in RCW 86.16.120; or (4) be construed to grant
15 additional regulatory authority to local or state agencies. The power
16 of eminent domain may not be used in carrying out any provision of this
17 chapter. The property rights of landowners shall be protected from
18 arbitrary and discriminatory action.

19 NEW SECTION. **Sec. 15.** STATE TRUST LANDS. This chapter shall not
20 prohibit the department of natural resources from exercising its full
21 responsibilities and obligations for the management of state trust
22 lands.

23 NEW SECTION. **Sec. 16.** REDESIGNATION OF SCENIC RIVERS. On the
24 effective date of this section, all rivers or river segments designated
25 in the scenic rivers program, chapter 79.72 RCW, shall be designated as
26 protected rivers under section 6 of this act.

1 NEW SECTION. **Sec. 17.** CAPTIONS NOT LAW. Section headings as used
2 in this act do not constitute any part of the law.

3 NEW SECTION. **Sec. 18.** SHORT TITLE. This chapter shall be known
4 and cited as the model rivers act.

5 NEW SECTION. **Sec. 19.** The following acts or parts of acts are
6 each repealed:

7 (1) RCW 79.72.010 and 1977 ex.s. c 161 s 1;

8 (2) RCW 79.72.020 and 1988 c 36 s 57, 1987 c 57 s 1, 1984 c 7 s
9 371, & 1977 ex.s. c 161 s 2;

10 (3) RCW 79.72.030 and 1977 ex.s. c 161 s 3;

11 (4) RCW 79.72.040 and 1989 c 175 s 169 & 1977 ex.s. c 161 s 4;

12 (5) RCW 79.72.050 and 1977 ex.s. c 161 s 5;

13 (6) RCW 79.72.060 and 1977 ex.s. c 161 s 6;

14 (7) RCW 79.72.070 and 1988 c 36 s 58 & 1977 ex.s. c 161 s 7;

15 (8) RCW 79.72.080 and 1977 ex.s. c 161 s 8;

16 (9) RCW 79.72.090 and 1977 ex.s. c 161 s 9;

17 (10) RCW 79.72.100 and 1988 c 36 s 59 & 1977 ex.s. c 161 s 10; and

18 (11) RCW 79.72.900 and 1977 ex.s. c 161 s 12.

19 NEW SECTION. **Sec. 20.** Sections 1 through 12 and 14 through 18
20 of this act shall constitute a new chapter in Title 43 RCW.