H-4311.3

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**SUBSTITUTE HOUSE BILL 2902**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** House Agriculture & Natural Resources (originally sponsored by Representatives Wilcox, Blake, Chandler, Barkis, Griffey, DeBolt, Tharinger, Walsh, Chapman, Orcutt, and Stokesbary)

AN ACT Relating to ensuring that Washington aggressively acts to open fish habitat by removing barriers under all forms of ownership; amending RCW 77.95.160; adding a new section to chapter 77.95 RCW; creating new sections; and making an appropriation.

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

NEW SECTION. **Sec.**  (1) The legislature finds that the fertile estuaries and connected rivers of the Salish Sea and the Columbia river systems once teemed with salmon and other species that provided the subsistence and foundations for rich human cultures to flourish for millennia. As the population of the area grew, and development moved forward, decisions were made that, in retrospect, seem short-sighted. The very rivers and streams that once provided the vital habitat to Washington's native aquatic species were slowly, one by one, blocked to fish passage.

(2) The legislature also finds that, in the last decade, Washington has begun a long-overdue process of identifying and removing these barriers to fish passage that block access to habitat and threaten the vitality of our salmon runs. Some of these investments have made an immediate impact by opening new river miles long blocked to salmonids, whose ancient memories allowed them to reestablish long-lost spawning grounds. Other efforts, such as the over three hundred million dollars invested by forest landowners to remove over six thousand barriers, remain, in many instances, unrealized salmon recovery potential as legacy downstream blockages throughout the watersheds continue to block the fish's transit through these waiting stream segments.

(3) The legislature also finds that it should be a priority of the state to avoid undoing, within a few generations, a state of sustainable balance between humans and the natural environment that has provided more than sufficient bounty for hundreds of generations to thrive here.

(4) Therefore, it is the intent of the legislature to redouble its commitment and prioritize the use of the state's resources, and those resources that may become available as a result of the state's economic growth, to removing barriers to fish passage under the management of all forms of ownership that are the state's responsibility to remedy: Those of local governments, those enrolled in the family forest fish passage program, and those owned by the state itself. In doing so, it is the intent of the legislature to commit no less than fifty million dollars of general fund support per year towards the funding of fish passage barrier removal projects. These commitments are in addition to any moneys obligated to fish passage barrier removal projects from other sources of funding.

NEW SECTION. **Sec.**  A new section is added to chapter 77.95 RCW to read as follows:

(1) The department must, using the funds appropriated consistent with section 4 of this act and amounts appropriated on an ongoing basis each year thereafter, provide funding for fish barrier removal projects in a manner determined by the fish passage barrier removal board created pursuant to RCW 77.95.160. Priority for funding must be given to the following four classes of projects: Transportation projects consistent with RCW 77.95.180 and with other state projects; local projects; projects included in the small forest landowner fish passage program created pursuant to RCW 76.13.150; and other projects, regardless of ownership, identified by the board as necessary to restore access continuity within a watershed.

(2) For investments in Puget Sound watersheds, the fish passage barrier removal board should coordinate with the Puget Sound partnership to capture the priorities embodied in their action agenda and set forth by any relevant citizen salmon recovery advisory bodies formed for purposes of the recovery of federally listed endangered species.

(3) By December 1st of each year, the department, with the oversight of the fish passage barrier removal board, must document in a report to the appropriate committees of the legislature its progress towards the goal of more quickly, efficiently, and expansively opening fish habitat than has been achieved through the inadequately funded efforts occurring prior to the effective date of this section.

(4) As part of the department's biennial and supplemental operating budget requests to the office of financial management, the department must include information on how both current budget and requested appropriations out of the fish passage barrier removal account created in section 5 of this act are anticipated to be spent, as determined by the fish passage barrier removal board.

**Sec.**  RCW 77.95.160 and 2014 c 120 s 4 are each amended to read as follows:

(1) The department shall maintain a fish passage barrier removal board. The board must be composed of a representative from the department, the department of transportation, cities, counties, the governor's salmon recovery office, tribal governments, and the department of natural resources. The representative of the department must serve as chair of the board and may expand the membership of the board to representatives of other governments, stakeholders, and interested entities.

(2)(a) The duty of the board is to identify ((~~and~~)), expedite, and oversee the funding of, consistent with section 2 of this act, the removal of human-made or caused impediments to anadromous fish passage in the most efficient manner practical through the development of a coordinated approach and schedule that identifies and prioritizes the projects necessary to eliminate fish passage barriers caused by state and local roads and highways and barriers owned by private parties. Priority for funding must be given to the following four classes of projects: Transportation projects consistent with RCW 77.95.180 and with other state projects; local projects; projects included in the small forest landowner fish passage program created pursuant to RCW 76.13.150; and other projects, regardless of ownership, identified by the board as necessary to restore access continuity within a watershed.

(b) The coordinated approach must address fish passage barrier removals in all areas of the state in a manner that is consistent with a recognition that scheduling and prioritization is necessary.

(c) The board must coordinate and mutually share information, when appropriate, with:

(i) Other fish passage correction programs, including local salmon recovery plan implementation efforts through the governor's salmon recovery office;

(ii) The applicable conservation districts when developing schedules and priorities within set geographic areas or counties; and

(iii) The recreation and conservation office to ensure that barrier removal methodologies are consistent with, and maximizing the value of, other salmon recovery efforts and habitat improvements that are not primarily based on the removal of barriers.

(d) Recommendations must include proposed funding mechanisms and other necessary mechanisms and methodologies to coordinate state, tribal, local, and volunteer barrier removal efforts within each water resource inventory area and satisfy the principles of RCW 77.95.180. To the degree practicable, the board must utilize the database created in RCW 77.95.170 and information on fish barriers developed by conservation districts to guide methodology development. The board may consider recommendations by interested entities from the private sector and regional fisheries enhancement groups.

(e) When developing a prioritization methodology under this section, the board shall consider:

(i) Projects benefiting depressed, threatened, and endangered stocks;

(ii) Projects providing access to available and high quality spawning and rearing habitat;

(iii) Correcting the lowest barriers within the stream first;

(iv) Whether an existing culvert is a full or partial barrier;

(v) Projects that are coordinated with other adjacent barrier removal projects; and

(vi) Projects that address replacement of infrastructure associated with flooding, erosion, or other environmental damage. (f) The board may not make decisions on fish passage standards or categorize as impassible culverts or other infrastructure developments that have been deemed passable by the department.

NEW SECTION. **Sec.**  The sum of fifty million dollars, or as much thereof as may be necessary, is appropriated for the fiscal year ending June 30, 2019, from the state general fund to the department of fish and wildlife for fish passage barrier removal projects consistent with section 2 of this act.

NEW SECTION. **Sec.**  The fish passage barrier removal account is created in the state treasury. At the beginning of fiscal year 2020 and each fiscal year thereafter, the state treasurer shall transfer into the fish passage barrier removal account from the general fund the sum of fifty million dollars. The amount transferred must be increased on an annual basis by the percentage rate of annual growth in state general fund revenues, as determined by each June forecast by the economic and revenue forecast council. Moneys in the account may be spent only after appropriation. Expenditures from the account may only be used for the removal of fish passage barriers as described in section 2 of this act.

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