
SECOND SUBSTITUTE HOUSE BILL 2379

State of Washington

54th Legislature

1996 Regular Session

By House Committee on Finance (originally sponsored by Representatives Chandler, B. Thomas, Quall, Hickel, Schoesler, Mastin, Basich, Dyer, Dickerson, Conway, Sheldon, Hymes, Mulliken and Linville)

Read first time 02/06/96.

1 AN ACT Relating to creating a property tax credit as an incentive
2 for the improvement of streams, rivers, and riparian areas; reenacting
3 and amending RCW 90.58.030; adding a new section to chapter 89.08 RCW;
4 adding a new section to chapter 35.63 RCW; adding a new section to
5 chapter 35A.63 RCW; adding a new section to chapter 36.70 RCW; adding
6 a new section to chapter 36.70A RCW; adding a new section to chapter
7 43.21C RCW; adding a new section to chapter 75.20 RCW; adding a new
8 section to chapter 79.90 RCW; adding a new section to chapter 90.48
9 RCW; adding a new chapter to Title 84 RCW; providing an effective date;
10 and providing expiration dates.

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

12 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

13 (a) Cooperative partnerships formed by governmental agencies and
14 private landowners can provide needed improvement to streams, rivers,
15 and riparian areas;

16 (b) Improving the habitat of streams, rivers, and riparian areas
17 will:

18 (i) Benefit the aquatic and wildlife species in the state;

19 (ii) Improve water quality for water resource users;

1 (iii) Reduce damage to property that often accompanies flooding;
2 and

3 (iv) Potentially improve the availability of water for users; and

4 (c) Some salmonid stocks within the state of Washington have
5 declined at an accelerated rate during the past few years and improving
6 the habitat of streams, rivers, and riparian areas upon which spawning
7 salmonid stocks depend for survival will help to reverse this decline.

8 (2) The legislature intends that a program be created to improve
9 the habitat of aquatic and wildlife species of streams, rivers, and
10 riparian areas and that owners of land abutting streams and rivers be
11 allowed a credit against the state portion of property taxes levied on
12 such land for expenditures made to improve the habitat of streams,
13 rivers, and riparian areas.

14 NEW SECTION. **Sec. 2.** The definitions in this section apply
15 throughout this chapter unless the context clearly requires otherwise.

16 (1) "Conservation commission" means the conservation commission
17 created under chapter 89.08 RCW.

18 (2) "Conservation district" means a conservation district created
19 under chapter 89.08 RCW.

20 (3) "Improvement" and "improve" mean expenditures made to improve
21 or restore the water quality and quantity, wildlife habitat, or aquatic
22 habitat of streams, rivers, or riparian areas in the state.

23 (4) "Owner" means the party or parties having the fee interest in
24 land, except that where land is subject to real estate contract,
25 "owner" means the contract vendee.

26 (5) "Riparian" means areas next to streams or rivers that are
27 capable of supporting plant and animal species that require more
28 moisture than the plant and animal communities growing on adjacent
29 uplands. Riparian areas are adjacent to streams and rivers where
30 specific measures are needed to protect aquatic and wildlife habitat
31 needs and watershed.

32 (6) "Salmonid" means a fish of the family salmonidae. Fish in this
33 family include salmon, steelhead, trout, char, whitefish, and grayling.

34 (7) "Watershed" means a geographic region within which water drains
35 into a particular river, stream, or body of water identified and
36 numbered as state of Washington water resource inventory areas under
37 RCW 43.27A.130 and defined by WAC 173-500-040 as existing on the
38 effective date of this act.

1 NEW SECTION. **Sec. 3.** (1) An owner of a parcel of land shall be
2 entitled to the credit specified in section 6 of this act against
3 property taxes on the parcel, if:

4 (a) The parcel contains land that abuts a stream, river, or
5 riparian area and the land falls within one of the categories set forth
6 in section 4 of this act and the owner of the parcel requests the
7 development of an improvement plan under this chapter;

8 (b) A conservation district has determined that improvements on
9 that land or on a portion of any public property that is within the
10 stream or river, which portion is immediately abutted by the parcel,
11 are necessary to improve the habitat of the stream, river, or riparian
12 area;

13 (c) The conservation district and the department of fish and
14 wildlife have jointly prepared an improvement plan under section 5 of
15 this act specifying the improvements to be made;

16 (d) The improvements to the habitat of the stream, river, or
17 riparian area detailed in the plan would be required to be made by a
18 governmental agency, as resources are available, if the owner does not
19 make the required improvements;

20 (e) The owner has completed the improvements as specified in the
21 improvement plan and has provided the conservation district with all
22 receipts for work and materials associated with the improvements;

23 (f) The conservation district has inspected the improvements and
24 has determined that the improvements specified by the improvement plan
25 have been satisfactorily completed; and

26 (g) The conservation district is authorized to issue a voucher for
27 the improvements under section 7(2) of this act.

28 (2) The conservation district shall provide the owner with a credit
29 voucher certifying that the owner has completed the improvements and
30 certifying the total amount of money spent by the owner in this effort.
31 The credit shall be for the amount of money spent implementing the
32 improvement plan, within the limitations of section 6 of this act. The
33 credit is for improvements specified in the improvement plan that are
34 made on the parcel or on a portion of any public property within a
35 stream or river, which portion is immediately abutted by the parcel.

36 (3) To receive this credit the owner shall submit the credit
37 voucher received from the conservation district for the improvements to
38 the treasurer of the county in which the improved stream, river, or

1 riparian area is located. The treasurer shall treat this credit
2 voucher in the same manner as a monetary payment of property taxes.

3 NEW SECTION. **Sec. 4.** Land that falls within one of the following
4 categories may qualify for improvements to the habitat of streams,
5 rivers, or riparian areas that may be specified in improvement plans
6 under this chapter:

7 (1) Land bordering streams that are critical to the recovery of
8 anadromous fishery stocks listed as "critical" or "depressed" in the
9 1992 Washington State Salmon and Steelhead Stock Inventory published by
10 the department of fisheries, the department of wildlife, and the
11 Western Washington Treaty of Indian Tribes in March 1993;

12 (2) Land within a watershed that is listed as a priority in the
13 Preliminary Priority Watersheds for Restoration and Conservation of
14 Fish and Wildlife published by the department of fish and wildlife and
15 the department of natural resources in February 1995;

16 (3) Land bordering streams, rivers, and riparian areas that do not
17 meet water quality standards according to the May 1994 Section 303(d)
18 list published by the department of ecology;

19 (4) Land within watersheds that have an approved watershed plan
20 developed in accordance with chapter 90.70 RCW;

21 (5) Land abutting streams, rivers, or riparian areas impacting
22 threatened or endangered species as listed in the federal Endangered
23 Species Act, 16 U.S.C. Sec. 1531 et seq., as existing on the effective
24 date of this act; or

25 (6) Land included within watershed restoration plans or projects
26 that have been approved in accordance with RCW 89.08.450 through
27 89.08.510.

28 NEW SECTION. **Sec. 5.** (1) In order to qualify for the property tax
29 credit set forth in section 3 of this act, an improvement plan must be
30 developed. A conservation district and the department of fish and
31 wildlife shall jointly, in conjunction with the owner of land abutting
32 one or more streams, rivers, or riparian areas, develop a plan to
33 improve the habitat of the stream, river, or riparian areas using:

34 (a) Practices listed in the United States department of
35 agriculture/natural resources conservation service's field office
36 technical guide, as existing on the effective date of this act, for the
37 protection or improvement of riparian areas; or

1 (b) Practices listed in the 1995 Fish and Wildlife Priority Habitat
2 Management Recommendations: RIPARIAN.

3 (2) An owner of land or the owner's predecessor in right shall not
4 be responsible for maintaining any improvement made or caused to be
5 made as specified in an improvement plan authorized by this chapter.
6 Plans developed under this chapter shall not include maintenance
7 requirements. Plans developed under this chapter shall not include or
8 establish any public access requirements. Neither a person who makes
9 improvements or causes improvements to be made as specified in an
10 improvement plan authorized under this chapter nor the person's
11 successor in right shall be liable for any consequences resulting from
12 making the improvements or for any consequences arising from the
13 improvements.

14 (3) No state or local permit of any kind may be required for the
15 development of or for an activity conducted solely to implement an
16 improvement plan developed under this chapter if the conditions set
17 forth in section 3(1) (a) through (d) of this act are satisfied and the
18 implementation takes place by June 30, 1999.

19 (4) A conservation district and the department of fish and wildlife
20 may consult a unit of the natural resources conservation service of the
21 United States department of agriculture regarding the development of an
22 improvement plan for a parcel of land only with the consent of the
23 owner of the parcel of land.

24 NEW SECTION. **Sec. 6.** (1) A credit allowed under this chapter
25 shall be used as a credit against the state portion of property taxes
26 imposed on the parcel of land with regard to which an improvement plan
27 has been implemented under this chapter. Such a credit may not be used
28 against any property taxes imposed against buildings or other
29 facilities located on the parcel.

30 (2) Credits shall not exceed the amount of the state portion of the
31 property taxes imposed on the parcel nor the amount of money the owner
32 spent to improve stream, river, or riparian areas.

33 (3) A credit shall be allowed against taxes levied for collection
34 in each of not more than two years immediately following the year in
35 which completion of and payment for improvements occurs. Credits may
36 not be carried forward to subsequent tax years.

1 NEW SECTION. **Sec. 7.** (1) The total amount of credits to be
2 allowed under this chapter shall not exceed six million dollars for the
3 biennium ending June 30, 1997, twelve million dollars for the fiscal
4 year ending June 30, 1998, and twelve million dollars for the fiscal
5 year ending June 30, 1999.

6 (2) The conservation commission shall keep a running total of the
7 estimated costs of implementing improvement plans and a running total
8 of the dollar amount of credits approved under this chapter. The
9 commission shall immediately notify all conservation districts when the
10 estimated costs of implementing plans is approaching the amounts in
11 subsection (1) of this section and when the annual maximum dollar
12 amount of credit has been reached. A conservation district shall not
13 issue any credit voucher that would cause an annual limit to be
14 exceeded and shall advise landowners requesting the development of
15 improvement plans as to whether the total of the estimated costs of
16 implementing the plans state-wide approximate the amounts in subsection
17 (1) of this section.

18 NEW SECTION. **Sec. 8.** Any portion of the state levy reduced as a
19 result of this chapter shall be made whole from other state revenues.
20 This chapter shall not result in the reduction in any manner of the
21 amount of the state school levy for support of the common schools.

22 NEW SECTION. **Sec. 9.** This chapter shall expire June 30, 1999.

23 NEW SECTION. **Sec. 10.** A new section is added to chapter 89.08 RCW
24 to read as follows:

25 (1) Conservation districts shall monitor and provide monthly
26 reports to the conservation commission on the number of owners who
27 submit applications and who are approved to participate in the
28 improvement program set forth in section 3 of this act and on the
29 estimated costs of implementing the improvement plans developed under
30 the program.

31 (2) The conservation commission shall provide grants to
32 conservation districts to reimburse them for the technical assistance
33 costs incurred in developing improvement plans under chapter 84.-- RCW
34 (sections 1 through 9 of this act).

35 (3) The conservation commission in conjunction with the department
36 of fish and wildlife shall submit a report to the office of the

1 governor summarizing the progress of the program set forth in chapter
2 84.-- RCW (sections 1 through 9 of this act) by October 1, 1997.

3 (4) The conservation commission in cooperation with the Washington
4 department of fish and wildlife shall prepare and submit a report by
5 October 1, 1998, to the environmental committees of the legislature and
6 to the office of the governor summarizing the progress of the program
7 set forth in chapter 84.-- RCW (sections 1 through 9 of this act) to
8 date.

9 NEW SECTION. **Sec. 11.** A new section is added to chapter 35.63 RCW
10 to read as follows:

11 No permit or other authorization may be required under a local
12 ordinance for the development of an improvement plan under section 5 of
13 this act or for an activity conducted solely to implement such a plan.

14 NEW SECTION. **Sec. 12.** A new section is added to chapter 35A.63
15 RCW to read as follows:

16 No permit or other authorization may be required under a local
17 ordinance for the development of an improvement plan under section 5 of
18 this act or for an activity conducted solely to implement such a plan.

19 NEW SECTION. **Sec. 13.** A new section is added to chapter 36.70 RCW
20 to read as follows:

21 No permit or other authorization may be required under a local
22 ordinance for the development of an improvement plan under section 5 of
23 this act or for an activity conducted solely to implement such a plan.

24 NEW SECTION. **Sec. 14.** A new section is added to chapter 36.70A
25 RCW to read as follows:

26 This chapter does not apply to the development of an improvement
27 plan under section 5 of this act or to an activity conducted solely to
28 implement such a plan.

29 NEW SECTION. **Sec. 15.** A new section is added to chapter 43.21C
30 RCW to read as follows:

31 This chapter does not apply to the development of an improvement
32 plan under section 5 of this act or to an activity conducted solely to
33 implement such a plan.

1 NEW SECTION. **Sec. 16.** A new section is added to chapter 75.20 RCW
2 to read as follows:

3 Hydraulic project approval shall not be required for the
4 development of an improvement plan under section 5 of this act or an
5 activity conducted solely to implement such a plan.

6 NEW SECTION. **Sec. 17.** A new section is added to chapter 79.90 RCW
7 to read as follows:

8 No permit or lease shall be required for the development of an
9 improvement plan under section 5 of this act or for an activity
10 conducted on state aquatic lands solely to implement such a plan.

11 NEW SECTION. **Sec. 18.** A new section is added to chapter 90.48 RCW
12 to read as follows:

13 A permit shall not be required under this chapter for the
14 development of an improvement plan under section 5 of this act or for
15 an activity conducted solely to implement such a plan.

16 **Sec. 19.** RCW 90.58.030 and 1995 c 382 s 10, 1995 c 255 s 5, and
17 1995 c 237 s 1 are each reenacted and amended to read as follows:

18 As used in this chapter, unless the context otherwise requires, the
19 following definitions and concepts apply:

20 (1) Administration:

21 (a) "Department" means the department of ecology;

22 (b) "Director" means the director of the department of ecology;

23 (c) "Local government" means any county, incorporated city, or town
24 which contains within its boundaries any lands or waters subject to
25 this chapter;

26 (d) "Person" means an individual, partnership, corporation,
27 association, organization, cooperative, public or municipal
28 corporation, or agency of the state or local governmental unit however
29 designated;

30 (e) "Hearing board" means the shoreline hearings board established
31 by this chapter.

32 (2) Geographical:

33 (a) "Extreme low tide" means the lowest line on the land reached by
34 a receding tide;

35 (b) "Ordinary high water mark" on all lakes, streams, and tidal
36 water is that mark that will be found by examining the bed and banks

1 and ascertaining where the presence and action of waters are so common
2 and usual, and so long continued in all ordinary years, as to mark upon
3 the soil a character distinct from that of the abutting upland, in
4 respect to vegetation as that condition exists on June 1, 1971, as it
5 may naturally change thereafter, or as it may change thereafter in
6 accordance with permits issued by a local government or the department:
7 PROVIDED, That in any area where the ordinary high water mark cannot be
8 found, the ordinary high water mark adjoining salt water shall be the
9 line of mean higher high tide and the ordinary high water mark
10 adjoining fresh water shall be the line of mean high water;

11 (c) "Shorelines of the state" are the total of all "shorelines" and
12 "shorelines of state-wide significance" within the state;

13 (d) "Shorelines" means all of the water areas of the state,
14 including reservoirs, and their associated shorelands, together with
15 the lands underlying them; except (i) shorelines of state-wide
16 significance; (ii) shorelines on segments of streams upstream of a
17 point where the mean annual flow is twenty cubic feet per second or
18 less and the wetlands associated with such upstream segments; and (iii)
19 shorelines on lakes less than twenty acres in size and wetlands
20 associated with such small lakes;

21 (e) "Shorelines of state-wide significance" means the following
22 shorelines of the state:

23 (i) The area between the ordinary high water mark and the western
24 boundary of the state from Cape Disappointment on the south to Cape
25 Flattery on the north, including harbors, bays, estuaries, and inlets;

26 (ii) Those areas of Puget Sound and adjacent salt waters and the
27 Strait of Juan de Fuca between the ordinary high water mark and the
28 line of extreme low tide as follows:

29 (A) Nisqually Delta«from DeWolf Bight to Tatsolo Point,

30 (B) Birch Bay«from Point Whitehorn to Birch Point,

31 (C) Hood Canal«from Tala Point to Foulweather Bluff,

32 (D) Skagit Bay and adjacent area«from Brown Point to Yokeko Point,

33 and

34 (E) Padilla Bay«from March Point to William Point;

35 (iii) Those areas of Puget Sound and the Strait of Juan de Fuca and
36 adjacent salt waters north to the Canadian line and lying seaward from
37 the line of extreme low tide;

1 (iv) Those lakes, whether natural, artificial, or a combination
2 thereof, with a surface acreage of one thousand acres or more measured
3 at the ordinary high water mark;

4 (v) Those natural rivers or segments thereof as follows:

5 (A) Any west of the crest of the Cascade range downstream of a
6 point where the mean annual flow is measured at one thousand cubic feet
7 per second or more,

8 (B) Any east of the crest of the Cascade range downstream of a
9 point where the annual flow is measured at two hundred cubic feet per
10 second or more, or those portions of rivers east of the crest of the
11 Cascade range downstream from the first three hundred square miles of
12 drainage area, whichever is longer;

13 (vi) Those shorelands associated with (i), (ii), (iv), and (v) of
14 this subsection (2)(e);

15 (f) "Shorelands" or "shoreland areas" means those lands extending
16 landward for two hundred feet in all directions as measured on a
17 horizontal plane from the ordinary high water mark; floodways and
18 contiguous floodplain areas landward two hundred feet from such
19 floodways; and all wetlands and river deltas associated with the
20 streams, lakes, and tidal waters which are subject to the provisions of
21 this chapter; the same to be designated as to location by the
22 department of ecology. Any county or city may determine that portion
23 of a one-hundred-year-flood plain to be included in its master program
24 as long as such portion includes, as a minimum, the floodway and the
25 adjacent land extending landward two hundred feet therefrom;

26 (g) "Floodway" means those portions of the area of a river valley
27 lying streamward from the outer limits of a watercourse upon which
28 flood waters are carried during periods of flooding that occur with
29 reasonable regularity, although not necessarily annually, said floodway
30 being identified, under normal condition, by changes in surface soil
31 conditions or changes in types or quality of vegetative ground cover
32 condition. The floodway shall not include those lands that can
33 reasonably be expected to be protected from flood waters by flood
34 control devices maintained by or maintained under license from the
35 federal government, the state, or a political subdivision of the state;

36 (h) "Wetlands" means areas that are inundated or saturated by
37 surface water or ground water at a frequency and duration sufficient to
38 support, and that under normal circumstances do support, a prevalence
39 of vegetation typically adapted for life in saturated soil conditions.

1 Wetlands generally include swamps, marshes, bogs, and similar areas.
2 Wetlands do not include those artificial wetlands intentionally created
3 from nonwetland sites, including, but not limited to, irrigation and
4 drainage ditches, grass-lined swales, canals, detention facilities,
5 wastewater treatment facilities, farm ponds, and landscape amenities,
6 or those wetlands created after July 1, 1990, that were unintentionally
7 created as a result of the construction of a road, street, or highway.
8 Wetlands may include those artificial wetlands intentionally created
9 from nonwetland areas to mitigate the conversion of wetlands.

10 (3) Procedural terms:

11 (a) "Guidelines" means those standards adopted to implement the
12 policy of this chapter for regulation of use of the shorelines of the
13 state prior to adoption of master programs. Such standards shall also
14 provide criteria to local governments and the department in developing
15 master programs;

16 (b) "Master program" shall mean the comprehensive use plan for a
17 described area, and the use regulations together with maps, diagrams,
18 charts, or other descriptive material and text, a statement of desired
19 goals, and standards developed in accordance with the policies
20 enunciated in RCW 90.58.020;

21 (c) "State master program" is the cumulative total of all master
22 programs approved or adopted by the department of ecology;

23 (d) "Development" means a use consisting of the construction or
24 exterior alteration of structures; dredging; drilling; dumping;
25 filling; removal of any sand, gravel, or minerals; bulkheading; driving
26 of piling; placing of obstructions; or any project of a permanent or
27 temporary nature which interferes with the normal public use of the
28 surface of the waters overlying lands subject to this chapter at any
29 state of water level;

30 (e) "Substantial development" shall mean any development of which
31 the total cost or fair market value exceeds two thousand five hundred
32 dollars, or any development which materially interferes with the normal
33 public use of the water or shorelines of the state; except that the
34 following shall not be considered substantial developments for the
35 purpose of this chapter:

36 (i) Normal maintenance or repair of existing structures or
37 developments, including damage by accident, fire, or elements;

38 (ii) Construction of the normal protective bulkhead common to
39 single family residences;

1 (iii) Emergency construction necessary to protect property from
2 damage by the elements;

3 (iv) Construction and practices normal or necessary for farming,
4 irrigation, and ranching activities, including agricultural service
5 roads and utilities on shorelands, and the construction and maintenance
6 of irrigation structures including but not limited to head gates,
7 pumping facilities, and irrigation channels. A feedlot of any size,
8 all processing plants, other activities of a commercial nature,
9 alteration of the contour of the shorelands by leveling or filling
10 other than that which results from normal cultivation, shall not be
11 considered normal or necessary farming or ranching activities. A
12 feedlot shall be an enclosure or facility used or capable of being used
13 for feeding livestock hay, grain, silage, or other livestock feed, but
14 shall not include land for growing crops or vegetation for livestock
15 feeding and/or grazing, nor shall it include normal livestock wintering
16 operations;

17 (v) Construction or modification of navigational aids such as
18 channel markers and anchor buoys;

19 (vi) Construction on shorelands by an owner, lessee, or contract
20 purchaser of a single family residence for his own use or for the use
21 of his family, which residence does not exceed a height of thirty-five
22 feet above average grade level and which meets all requirements of the
23 state agency or local government having jurisdiction thereof, other
24 than requirements imposed pursuant to this chapter;

25 (vii) Construction of a dock, including a community dock, designed
26 for pleasure craft only, for the private noncommercial use of the
27 owner, lessee, or contract purchaser of single and multiple family
28 residences, the cost of which does not exceed two thousand five hundred
29 dollars;

30 (viii) Operation, maintenance, or construction of canals,
31 waterways, drains, reservoirs, or other facilities that now exist or
32 are hereafter created or developed as a part of an irrigation system
33 for the primary purpose of making use of system waters, including
34 return flow and artificially stored ground water for the irrigation of
35 lands;

36 (ix) The marking of property lines or corners on state owned lands,
37 when such marking does not significantly interfere with normal public
38 use of the surface of the water;

1 (x) Operation and maintenance of any system of dikes, ditches,
2 drains, or other facilities existing on September 8, 1975, which were
3 created, developed, or utilized primarily as a part of an agricultural
4 drainage or diking system;

5 (xi) Site exploration and investigation activities that are
6 prerequisite to preparation of an application for development
7 authorization under this chapter, if:

8 (A) The activity does not interfere with the normal public use of
9 the surface waters;

10 (B) The activity will have no significant adverse impact on the
11 environment including, but not limited to, fish, wildlife, fish or
12 wildlife habitat, water quality, and aesthetic values;

13 (C) The activity does not involve the installation of a structure,
14 and upon completion of the activity the vegetation and land
15 configuration of the site are restored to conditions existing before
16 the activity;

17 (D) A private entity seeking development authorization under this
18 section first posts a performance bond or provides other evidence of
19 financial responsibility to the local jurisdiction to ensure that the
20 site is restored to preexisting conditions; and

21 (E) The activity is not subject to the permit requirements of RCW
22 90.58.550;

23 (xii) The process of removing or controlling an aquatic noxious
24 weed, as defined in RCW 17.26.020, through the use of an herbicide or
25 other treatment methods applicable to weed control that are recommended
26 by a final environmental impact statement published by the department
27 of agriculture or the department jointly with other state agencies
28 under chapter 43.21C RCW;

29 (xiii) The development of a plan under section 5 of this act or an
30 activity conducted solely to implement such a plan. This subsection
31 (3)(e)(xiii) expires June 30, 1999.

32 NEW SECTION. Sec. 20. Sections 1 through 9 of this act constitute
33 a new chapter in Title 84 RCW.

34 NEW SECTION. Sec. 21. Sections 10 through 18 of this act shall
35 expire June 30, 1999.

1 NEW SECTION. **Sec. 22.** This act shall take effect July 1, 1996.

--- **END** ---