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**SUBSTITUTE HOUSE BILL 1765**

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**State of Washington**

**55th Legislature**

**1997 Regular Session**

**By** House Committee on Trade & Economic Development (originally sponsored by Representatives Doumit, Buck, Kessler, Hatfield, Butler, Grant, Morris, Regala, Sheldon, D. Schmidt, Linville, Benson, H. Sommers, Dunshee, Cole, Mielke, Fisher, Conway, Tokuda, Quall, Thompson, Scott, Keiser, Mason, Blalock, Poulsen, O'Brien, Constantine, Costa, Gombosky, Murray, Ogden, Cody and Lantz)

Read first time 03/03/97.

1 AN ACT Relating to the jobs for the environment program; adding new  
2 sections to chapter 43.21J RCW; repealing RCW 43.21J.005, 43.21J.010,  
3 43.21J.020, 43.21J.030, 43.21J.040, 43.21J.050, 43.21J.060, 43.21J.070,  
4 43.21J.800, 43.21J.900, 43.21J.901, 43.21J.902, 43.21J.903, and  
5 43.21J.904; providing an effective date; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds the long-term  
8 health of the economy of Washington state depends on healthy natural  
9 resources.

10 (2) The legislature further finds the livelihoods, revenues, and  
11 other benefits derived from Washington's natural resources are  
12 threatened by continuing degradation of water quality and habitat, and  
13 that investment is required to prevent the collapse of economically  
14 important industries that rely on a healthy environment, and improve  
15 poorly functioning ecosystems.

16 (3) The legislature further finds fisheries and timber-dependent  
17 communities can provide the skills and people and affected natural  
18 resource workers could greatly benefit from family wages and benefits  
19 employment associated with implementing priority projects.

1 (4) The legislature therefore declares, and it is the intent and  
2 purpose of this chapter, to make immediate and continuing investment to  
3 restore and conserve the health of the state's watersheds, to foster  
4 voluntary watershed partnerships within and near fisheries and timber-  
5 dependent communities, to train and employ affected natural resource  
6 workers, to minimize the need to list species as threatened or  
7 endangered and promote the recovery of those species that remain  
8 listed, and to provide funds to continue the department of ecology's  
9 Washington conservation corps program. And it is also the intent that  
10 employment is at family wages with benefits for those who continue to  
11 be affected by economic dislocation.

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

14 (1) "Affected natural resource worker" means those workers eligible  
15 to receive wages and benefits through the jobs for the environment  
16 program, including:

17 (a) Workers previously employed under the jobs for the environment  
18 program;

19 (b) Workers in a qualified natural resource training program such  
20 as a state-approved apprenticeship program;

21 (c) New certified dislocated natural resource workers; and

22 (d) The workers listed in (a) through (c) of this subsection are  
23 preferred;

24 (e) Other workers from fisheries and timber-dependent communities  
25 that have at least a two-year work history in a timber-dependent  
26 community.

27 (2) "Agreement" means any jobs for the environment grant,  
28 procurement, contract, or other legally binding document.

29 (3) "Conservation" means activities that support the sustainability  
30 of critical watershed functions including such activities as field  
31 assessment of conditions prior to initiating restoration work and field  
32 and mapping functions related to stream typing.

33 (4) "Impact areas" means rural natural resources impact areas as  
34 defined in RCW 43.31.601 and areas in which at-risk fish stocks  
35 coincide.

36 (5) "Account" means the jobs for the environment restoration  
37 account that provides funding to implement the provisions of this  
38 chapter to restore and conserve watersheds within Washington state.

1 (6) For the purposes of determining eligibility as a direct  
2 applicant to the jobs for the environment program, "private for-profit"  
3 is defined as small business, under RCW 19.85.020, which is any  
4 business entity including sole proprietorship, corporation,  
5 partnership, or other legal entity, that is owned and operated  
6 independently from all other businesses that has the purpose of making  
7 a profit and has fifty or fewer employees. Any for-profit business is  
8 eligible to receive funds as a subcontractor to a locally funded  
9 project, regardless of the business size.

10 (7) "Qualified watershed partnership" means an entity consisting of  
11 stakeholders representing diverse interests of the watershed and with  
12 sufficient authority or resources to carry out a long-term restoration  
13 and conservation plan in the area of operation they have identified.

14 (8) "Task force" means the jobs for the environment task force  
15 created under section 4 of this act.

16 (9) "Watershed restoration" means altering current conditions in  
17 measurable ways to provide water quality and habitat adequate to  
18 contribute to the sustainability of healthy, diverse populations of  
19 fish and wildlife in a watershed.

20 NEW SECTION. Sec. 3. (1) The jobs for the environment restoration  
21 account is established in the state treasury. Money in the account may  
22 be spent only after appropriation by the legislature and in a manner  
23 consistent with this chapter.

24 (2) Entities eligible to apply for funds include private  
25 nonprofits, small private for-profits, and local, state, and tribal  
26 governments.

27 (3) Funds may only be expended under restoration and conservation  
28 agreements entered into by the state under this chapter that are part  
29 of a long-term restoration and conservation planning effort that  
30 includes an acceptable multiyear capital investment strategy and  
31 contributes to the restoration and conservation identifying financial  
32 participation from key public and private partners. The plan provides  
33 for a local match consisting of funds or in kind of at least twenty  
34 percent in the first year of state investment, and thereafter  
35 increasing the nonstate jobs for the environment share by five percent  
36 or more each year of the plan in which state jobs for the environment  
37 investment is sought, until achieving a fifty-fifty state jobs for the  
38 environment funding to nonstate jobs for the environment funding ratio.

1 Match requirements may be adjusted by the task force to avoid cases of  
2 unavoidable hardship that would otherwise result in an entity being  
3 ineligible.

4 (4) Funds are awarded on a competitive basis. Funds shall be used  
5 for watershed and conservation projects and programs as jointly  
6 identified by the department of natural resources and the department of  
7 fish and wildlife with input from the task force. The task force may  
8 review, evaluate, and make recommendations on projects and programs  
9 being considered for funding. Of the funds available within the  
10 account, the task force may recommend projects or programs that will:

11 (a) Use up to twenty-five percent of the funds available to fund  
12 projects from within impact areas as determined by the task force to  
13 exist;

14 (b) Use up to fifty percent of the funds available to fund projects  
15 within areas where a qualified watershed partnership exists or would  
16 likely exist in the near future as determined by the task force;

17 (c) Use up to thirteen percent of the funds available for local  
18 projects that carry out area-wide planning, and project or area-wide  
19 monitoring and assessment activities. Up to one-half of the funding in  
20 this subsection is available for watershed partnerships not able to  
21 meet program planning and monitoring requirements without this  
22 assistance.

23 (5) Up to twelve percent may be expended for administrative and  
24 technical assistance purposes. However, funds expended by the  
25 Washington conservation corps are subject solely to limitations set  
26 forth in RCW 43.220.230.

27 (6) Except for essential administrative, supervisory, and technical  
28 assistance purposes, funds in the account may not be used for hiring  
29 permanent state employees.

30 (7) Funds are not awarded for:

31 (a) Administrative rule making;

32 (b) Community outreach;

33 (c) Acquisition of real property;

34 (d) Mitigation work required under state or federal permits;

35 (e) Incentives or bonuses to salaried employees; or

36 (f) Marketing studies or research.

37 (8) Nonprofit organizations may receive up to ten percent of the  
38 agreement award for start-up costs upon submission of their completed  
39 scope of work.

1        NEW SECTION.    **Sec. 4.**    (1) The jobs for the environment task force  
2 is created within the department of natural resources. The purpose of  
3 the task force is to provide a coordinated and comprehensive approach  
4 to implementation of this chapter. The task force consists of the  
5 following representative or their designee:

6        (a) The commissioner of public lands;

7        (b) The director of the department of fish and wildlife;

8        (c) The director of the department of ecology;

9        (d) The director of the work force training and education  
10 coordinating board;

11        (e) The governor's rural community assistance team coordinator;

12        (f) A tribal representative;

13        (g) A federal agency representative from among participating  
14 federal agencies; and

15        (h) At least eight public members but no more than ten, selected at  
16 large, representing community and nongovernmental interests.

17        The public members include at least one representative from each of  
18 the following:

19        (i) State-wide rural community economic development organization;

20        (ii) A conservation district;

21        (iii) Small restoration business interest;

22        (iv) Fishing and shellfish industry;

23        (v) Organized labor;

24        (vi) Timber industry;

25        (vii) State-wide environmental organization; and

26        (viii) Community-based private nonprofit organization with a  
27 watershed restoration focus.

28        The representatives of the tribal, federal, and public members  
29 shall serve three-year terms, except for one-third who shall serve an  
30 initial term of one year and one-third who shall serve an initial term  
31 of two years. The task force may seek the advice of other agencies and  
32 organizations as needed. The commissioner of public lands appoints the  
33 chair and public members. The governor appoints the governmental  
34 members of the task force. A task force quorum for meetings consists  
35 of at least one-half of the government and at least one-half plus one  
36 of the community, tribal, and public members. All members serve  
37 without additional pay, except that public representatives will have  
38 travel costs reimbursed. Participation in the work of the committee by  
39 agency members is considered in performance of their employment. The

1 department of natural resources will staff and provide administrative  
2 support to the task force and solicit the participation of agency  
3 personnel to assist the task force.

4 (2) The task force has the following responsibilities:

5 (a) Reviewing and periodically updating criteria to be used in  
6 selecting projects and programs for funding from the account;

7 (b) Soliciting on a competitive basis, evaluating, and ranking  
8 requests for funds from the account;

9 (c) Recommending plans, projects, agreements, and apprenticeship  
10 and other quality training activities as defined in section 2 of this  
11 act to the commissioner of public lands for approval and funding;

12 (d) Assisting state agencies and local governments in the  
13 implementation of effective watershed restoration and conservation  
14 projects funded under this chapter, and in the development of qualified  
15 local watershed partnerships and locally based restoration and  
16 conservation plans; and

17 (e) Submitting to the appropriate standing committees of the  
18 legislature a biennial report summarizing the benefits created by the  
19 projects funded under this chapter, and making recommendations for  
20 improving the jobs for the environment program.

21 NEW SECTION. **Sec. 5.** The task force evaluates and recommends  
22 proposals for funding from the account using, at a minimum, the  
23 following criteria:

24 (1) The ability of the proponents of the project to quantify their  
25 projected improvements in water or habitat quality and quantity;

26 (2) The inclusion of the project as a priority in a federal, state,  
27 tribal, or local plan, until a completed watershed restoration and  
28 conservation plan has been prepared;

29 (3) The number and duration of jobs with family wages and benefits  
30 to be created or retained for affected natural resource workers by the  
31 project; projects that achieve stable, one-year or longer jobs. Jobs  
32 that avoid redislocating natural resource workers from the jobs for the  
33 environment program are to be given added consideration over those that  
34 do not;

35 (4) The extent to which the project will help avoid further  
36 listings of threatened or endangered species and providing for recovery  
37 of those already listed;

1 (5) The participation as a cosponsor or employer by tribes or  
2 private for-profits to provide funds, equipment time, materials, or  
3 technical expertise, including training to match state or federal  
4 funds. The jobs for the environment program will strongly promote  
5 training that is offered through a state-approved natural resource  
6 apprenticeship program, whenever practicable, in the area.

7 NEW SECTION. **Sec. 6.** The department of natural resources is the  
8 administering state agency for the jobs for the environment program and  
9 may enter into such agreements and cooperative watershed partnerships  
10 that are needed or desired to ensure the effective implementation of  
11 this chapter. The department of fish and wildlife is the source of  
12 state assistance for knowledge and technical expertise in addressing  
13 fish and wildlife issues. The department of ecology is the source of  
14 state assistance for knowledge and expertise in addressing water  
15 quality issues.

16 NEW SECTION. **Sec. 7.** An individual is considered to be in  
17 training with the approval of the commissioner of employment security  
18 as defined in RCW 50.20.043, and is eligible for applicable  
19 unemployment insurance benefits while participating in and making  
20 satisfactory progress in training related to this chapter.

21 (1) For recruitment purposes, the task force will give notification  
22 of potential new jobs to local employment security offices, local labor  
23 organizations, and central labor councils in the area of funding. The  
24 list includes the number, location, and types of jobs expected to be  
25 provided by each project. The employment security department may  
26 recruit additional dislocated workers for these jobs, when needed, by:

27 (a) Notifying dislocated fishers and forest workers who meet the  
28 definitions in chapter 50.70 RCW, who are receiving unemployment  
29 benefits or who have exhausted unemployment benefits, of their  
30 eligibility for the programs;

31 (b) Notifying other unemployed workers that have at least a two-  
32 year work history in a timber-dependent community;

33 (c) Developing a pool of unemployed workers including high-risk  
34 youth eligible to enroll in the program that have at least a two-year  
35 work history in a timber-dependent community; and

36 (d) Establishing procedures for workers to apply to the programs.

1 The workers listed in (a) of this subsection shall be notified  
2 first.

3 (2) The employment security department will certify and refer  
4 eligible workers to employers hiring under the jobs for the environment  
5 programs. Recipients of funds must consider the list of eligible  
6 workers developed by the employment security department before  
7 conducting interviews or making hiring decisions for dislocated workers  
8 entering the program. Workers may receive opportunities for vocational  
9 training, job placement, and remedial education. The employment  
10 security department shall audit each employer at the beginning of each  
11 project and every three months thereafter and certify that dislocated  
12 fishers and forest workers are being utilized to the greatest extent  
13 possible.

14 (3) An individual is eligible for applicable employment security  
15 benefits while participating in training related to this chapter.  
16 Eligibility is confirmed by the commissioner of employment security by  
17 submitting a commissioner-approved training waiver.

18 (4) Persons receiving funds from the account are not considered  
19 state employees for the purposes of existing provisions of law with  
20 respect to hours of work, sick leave, vacation, and civil service but  
21 may receive health benefits. Persons receiving funds from the account  
22 who are hired by a state agency may receive medical and dental benefits  
23 under chapter 41.05 RCW and industrial insurance coverage under Title  
24 51 RCW, but are exempt from the provisions under chapter 41.06 RCW.

25 (5) Employment under this program does not result in the  
26 displacement or partial displacement, whether by the reduction of hours  
27 of nonovertime work, wages, and benefits, or other employment benefits,  
28 of currently employed workers, including but not limited to state civil  
29 service employees, or of currently or normally contracted services.

30 (6) With an employer's written consent, workers who must commute  
31 daily over sixty miles round trip are eligible for transportation  
32 expenses incurred when using a private vehicle.

33 (7) For the purpose of providing the protection of the unemployment  
34 compensation system to individuals at the conclusion of training or  
35 employment obtained as a result of this chapter, a special base year  
36 and benefit year are established.

37 (a) Only individuals who have entered training or employment  
38 provided by the account, and whose employment or training under the



1 account was not considered covered under chapter 50.04 RCW, are allowed  
2 the special benefit provisions of this chapter.

3 (b) An application for initial determination made under this  
4 chapter must be filed in writing with the employment security  
5 department within twenty-six weeks following the week in which the  
6 individual commenced employment or training obtained as a result of  
7 this chapter. Notice from the individual, from the employing entity,  
8 or notice of hire from employment security department administrative  
9 records satisfies this requirement.

10 (c) For the purpose of this chapter, a special base year is  
11 established for an individual consisting of the first four of the last  
12 five completed calendar quarters, or if a benefit year is not  
13 established using the first four of the last five completed calendar  
14 quarters as the base year, the last four completed calendar quarters  
15 immediately prior to the first day of the calendar week in which the  
16 individual began employment or training provided by the account.

17 (d) A special individual benefit year is established consisting of  
18 the entire period of training or employment provided by the account and  
19 a fifty-two consecutive week period commencing with the first day of  
20 the calendar week in which the individual last participated in the  
21 employment or training. No special benefit year may have a duration in  
22 excess of three hundred twelve calendar days. This special benefit  
23 year is not established unless the criteria contained in RCW 50.04.030  
24 has been met, except that an individual meeting the requirements of  
25 this chapter and who has an unexpired benefit year established which  
26 would overlap the special benefit year may elect to establish a special  
27 benefit year under this chapter, notwithstanding the provisions in RCW  
28 50.04.030 relating to establishment of a subsequent benefit year, and  
29 RCW 50.40.010 relating to waiver of rights. This unexpired benefit  
30 year is terminated at the beginning of the special benefit year if the  
31 individual elects to establish a special benefit year under this  
32 chapter.

33 (e) The individual's weekly benefit amount and maximum amount  
34 payable during the special benefit year are governed by the provisions  
35 contained in RCW 50.20.120. The individual's basic and continuing  
36 right to benefits are governed by the general laws and rules relating  
37 to the payment of unemployment compensation benefits to the extent that  
38 they are not in conflict with this chapter.

1 (f) The fact that wages, hours, or weeks worked during the special  
2 base year may have been used in computation of a prior valid claim for  
3 unemployment compensation may not affect a claim for benefits made  
4 under this chapter. However, wages, hours, and weeks worked used in  
5 computing entitlement on a claim filed under this chapter are not  
6 available or used for establishing entitlement or amount of benefits in  
7 any succeeding benefit year.

8 (g) Benefits paid to an individual filing under this section are  
9 not charged to the experience rating account of any contribution paying  
10 employer.

11 (8) The department of labor and industries is directed to expedite  
12 through administrative approval of the jobs for the environment  
13 program's current wages as the prevailing wages under chapter 39.12 RCW  
14 for watershed restoration workers employed under this chapter.

15 NEW SECTION. **Sec. 8.** On or before June 30, 2000, the department  
16 of natural resources will prepare a report to the legislature  
17 evaluating the implementation of this chapter. Indicators of success  
18 that shall be reported on include the following factors:

19 (1) Whether effective local watershed restoration and conservation  
20 strategies consistent with state guidelines have been adopted;

21 (2) The number of dislocated fishers and forest workers employed by  
22 each project;

23 (3) The number of previously dislocated workers, employed and  
24 trained through jobs for the environment, that have found long-term  
25 employment;

26 (4) Active use by sponsors of one or more training curriculum for  
27 watershed restoration workers that promote effective and consistent  
28 skills needed by restoration workers;

29 (5) Whether project design guidelines have been prepared and  
30 applied that are based on generally accepted standards and techniques;

31 (6) The number of funded projects underway in a timely manner;

32 (7) The number of projects started versus successfully completed  
33 and effectively documented; and the completion of a credible program  
34 review allowing the program to learn from individual project strengths  
35 and weaknesses;

36 (8) Whether the program's local match requirements are achieving  
37 the expected results of promoting strong local support;

1 (9) The effectiveness and quantity of on-the-ground  
2 accomplishments, for example, miles of stream bed or riparian area  
3 restored, miles of forest roads impacting water quality that are  
4 decommissioned, and the effectiveness of stream bank projects to reduce  
5 sedimentation; and

6 (10) Whether local watershed health indicators are established and  
7 being adequately monitored and reported on to determine area-wide  
8 progress in meeting watershed health goals.

9 NEW SECTION. **Sec. 9.** Sections 1 through 8 of this act are each  
10 added to chapter 43.21J RCW.

11 NEW SECTION. **Sec. 10.** The following acts or parts of acts are  
12 each repealed:

- 13 (1) RCW 43.21J.005 and 1993 c 516 s 1;
- 14 (2) RCW 43.21J.010 and 1995 c 226 s 26 & 1993 c 516 s 2;
- 15 (3) RCW 43.21J.020 and 1993 c 516 s 3;
- 16 (4) RCW 43.21J.030 and 1994 c 264 s 17 & 1993 c 516 s 5;
- 17 (5) RCW 43.21J.040 and 1993 c 516 s 4;
- 18 (6) RCW 43.21J.050 and 1993 c 516 s 8;
- 19 (7) RCW 43.21J.060 and 1993 c 516 s 9;
- 20 (8) RCW 43.21J.070 and 1993 c 516 s 10;
- 21 (9) RCW 43.21J.800 and 1996 c 288 s 36 & 1993 c 516 s 11;
- 22 (10) RCW 43.21J.900 and 1993 c 516 s 15;
- 23 (11) RCW 43.21J.901 and 1993 c 516 s 16;
- 24 (12) RCW 43.21J.902 and 1993 c 516 s 17;
- 25 (13) RCW 43.21J.903 and 1993 c 516 s 19; and
- 26 (14) RCW 43.21J.904 and 1993 c 516 s 20.

27 NEW SECTION. **Sec. 11.** This act is necessary for the immediate  
28 preservation of the public peace, health, or safety, or support of the  
29 state government and its existing public institutions, and takes effect  
30 July 1, 1997.

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