
HOUSE BILL 2236

State of Washington

55th Legislature

1997 Regular Session

By Representatives K. Schmidt, Mitchell, Fisher, Radcliff, Buck, O'Brien, Chandler, Blalock and Keiser

Read first time 03/04/97. Referred to Committee on Transportation Policy & Budget.

1 AN ACT Relating to environmental mitigation strategy of the
2 department of transportation; adding new sections to chapter 47.12 RCW;
3 and creating a new section.

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

5 NEW SECTION. **Sec. 1.** Intent. The legislature recognizes that the
6 department of transportation spends substantial funds on mitigating
7 unavoidable environmental impacts associated with meeting its mission
8 to deliver a state transportation system. It is the intent of the
9 legislature that the department optimize the use of existing
10 environmental mitigation dollars to protect the state's natural
11 resources in a cost-effective and environmentally sensitive manner.

12 As directed by chapter 125, Laws of 1995, the department has
13 developed a wetlands strategic plan that provides guidance for the
14 department's long-range management of wetlands associated with impacts
15 caused by transportation projects. The plan also identifies several
16 barriers to improved wetland and watershed management that still
17 remain. These include a lack of guidance for making trade-off
18 decisions for off-site/out-of-kind mitigation proposals, lack of
19 adequate funding, lack of predictability regarding whether a mitigation

1 bank could be used once it is created, and lack of a model by which
2 preservation of threatened wetlands can be used as a mitigation option.

3 The legislature recognizes that these activities can be enhanced by
4 improved coordination between the department and other agencies and
5 partners. This coordination should include development of additional
6 mitigation concepts and tools such as watershed-based mitigation and
7 wetland banking. Watershed-based mitigation and wetland banking
8 opportunities need to consider all aquatic resource impacts, including
9 wetlands, habitat, storm water quality and quantity, and flooding.

10 The legislature also recognizes that wetland banking and watershed-
11 based mitigation strategies offer potential benefits, including cost-
12 effectiveness, streamlining of the project development process,
13 improved benefits to the environment over more traditional types of
14 wetland mitigation, and formation of multijurisdictional partnerships.
15 State agencies have made commitments and progress toward providing
16 services and accomplishing their mission based on a watershed approach.
17 It is the intent of the legislature that the department continue to
18 develop mitigation strategies that can be applied within the context of
19 a watershed. It is also the legislature's intent that other state
20 agencies contribute, consistent with their respective agency missions,
21 to the development of these strategies. Contributions include, but are
22 not limited to collection, analysis, and sharing of data, as well as
23 policy and guidance development.

24 The legislature also supports efforts to improve the environmental
25 permitting process by integrating watershed planning with the
26 environmental impact evaluation, mitigation, and document review for
27 projects in the watershed. A result of this improved integration would
28 be reduced duplication of effort among separate environmental permit
29 and process activities within a single watershed, as well as increased
30 coordination and information sharing among project proponents within
31 watersheds.

32 NEW SECTION. **Sec. 2.** Definitions. As used in sections 1 through
33 6 of this act, "watershed" means an area identified as a state of
34 Washington water resource inventory area under WAC 173-500-040.

35 NEW SECTION. **Sec. 3.** Authority. The department has demonstrated
36 ongoing leadership in the development and implementation of scientific
37 and engineering methodologies needed for the creation of effective

1 wetland mitigation sites, storm water management practices, and fish
2 passage facilities. Therefore, the department may work with the
3 departments of ecology, fish and wildlife, community, trade, and
4 economic development, and other appropriate agencies, to integrate the
5 wetlands strategic plan into effective environmental mitigation and
6 watershed management strategies that meet the intent of section 1 of
7 this act.

8 NEW SECTION. **Sec. 4.** Organization and tasks. The department
9 shall establish a technical committee that includes cities, counties,
10 environmental groups, business groups, tribes, the Puget Sound action
11 team, and the state departments of ecology, fish and wildlife, and
12 community, trade, and economic development, and appropriate federal
13 agencies. The committee, which may add representatives of other
14 agencies, organizations, or interest groups to serve as members or in
15 an advisory capacity, shall assist the department in meeting the
16 objectives of section 1 of this act by taking the following actions:

17 (1) Work on integrating the department's mitigation strategy into
18 watershed plan implementation by collecting agency data to provide
19 analysis of resource protection needs; developing a decision-making
20 model for evaluating relative benefits of various mitigation options,
21 including off-site and out-of-kind trade-offs; and developing
22 documented guidance for permittees and permit reviewers. Where
23 barriers to integrating the department's environmental mitigation
24 strategy into watershed implementation exist, the committee shall
25 develop recommendations leading to their removal. The technical
26 committee shall assist permit agencies in developing and maintaining
27 data bases of implementation examples and special permit language;

28 (2) Develop agreed-upon guidance that will enable the preservation
29 of wetlands that are under imminent threat from development to be used
30 as an acceptable mitigation option;

31 (3) Develop strategies that will facilitate the implementation of
32 mitigation banking as a viable mitigation strategy;

33 (4) Continue involvement in developing wetland functions assessment
34 protocols;

35 (5) In order to facilitate improved use of environmental mitigation
36 banks, develop a mechanism for valuing and transferring credits of
37 environmental mitigation sites between the department, other public
38 entities, and private organizations;

1 (6) Develop incentives for interagency participation in joint
2 mitigation projects within a watershed;

3 (7) Explore options for funding environmental mitigation
4 strategies, including the watershed approach to mitigation.

5 The technical committee shall include in its analysis the various
6 mitigation requirements of the federal resource agencies, including the
7 National Marine Fisheries Service, the United States Army Corps of
8 Engineers, the Environmental Protection Agency, and the United States
9 Fish and Wildlife Service, and determine how best to coordinate and
10 streamline these mitigation requirements to achieve the greatest
11 watershed benefits and to facilitate cost-effective watershed-based
12 mitigation.

13 NEW SECTION. **Sec. 5.** Implementation. With guidance from the
14 technical committee established in section 4 of this act, the
15 departments of transportation, ecology, fish and wildlife, community,
16 trade, and economic development, and other appropriate agencies, shall
17 work cooperatively to implement the strategies and recommendations of
18 the department's wetlands strategic plan.

19 The department shall initiate interagency coordination and develop
20 any interagency agreements necessary to execute the tasks specified in
21 section 4 of this act.

22 NEW SECTION. **Sec. 6.** Feedback. The department shall prepare an
23 annual report to the legislative transportation committee and the
24 legislative natural resources committees on the status of program
25 elements and steps taken to meet the recommendations of the
26 department's wetlands strategic plan.

27 NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act are each
28 added to chapter 47.12 RCW.

29 NEW SECTION. **Sec. 8.** Section captions used in this act are not
30 part of the law.

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