
SENATE BILL 6753

State of Washington

55th Legislature

1998 Regular Session

By Senators Swecker, Winsley and Anderson

Read first time 02/04/98. Referred to Committee on Natural Resources & Parks.

1 AN ACT Relating to salmon recovery; amending RCW 90.82.040; adding
2 a new chapter to Title 75 RCW; and declaring an emergency.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that it is in the best
5 interest of the citizens of the state of Washington for the state to
6 retain primary responsibility for managing the natural resources of the
7 state, rather than abdicating those responsibilities to the federal
8 government. The legislature further finds that there is a substantial
9 link between the provisions of the federal endangered species act (16
10 U.S.C. Sec. 1531 et seq.) and the federal clean water act (33 U.S.C.
11 Sec. 1251 et seq.). Therefore, it is the intent of the legislature to
12 develop a structure that allows for the coordinated delivery of state
13 and federal assistance to local communities for the recovery and
14 enhancement of salmon stocks within the state while also addressing
15 improvements to water quality. The legislature also recognizes that
16 adaptive management is the best way to help salmon stocks recover, and
17 that adaptive management only works if there is effective monitoring
18 and sharing of results of local efforts. The legislature therefore
19 finds that an office should be created within the governor's office to

1 allow important information to be shared among interested parties, and
2 to allow federal agencies and the general public to see what the state
3 is doing to restore salmon to healthy sustainable populations with
4 productive and recreational fisheries.

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

7 (1) "Ombudsman" means the ombudsman of the governor's salmon
8 office.

9 (2) "Region" means a group of contiguous water resource inventory
10 area planning entities formed into a regional council under section 5
11 of this act.

12 (3) "Water resource inventory area" means a water resource
13 inventory area established in chapter 173-500 WAC as it existed on
14 January 1, 1997.

15 NEW SECTION. **Sec. 3.** The governor's salmon office is created. By
16 April 1, 1998, the governor shall appoint an ombudsman for the office.
17 The ombudsman shall serve at the pleasure of the governor. The salary
18 of the ombudsman shall be fixed by the governor, subject to RCW
19 43.03.040.

20 The salmon office consists of four permanent and up to eight total
21 staff, including the ombudsman. At least one of the permanent staff
22 positions is reserved for a person who is knowledgeable in tribal
23 fishery interests. The ombudsman shall solicit a list of suitable
24 candidates from federally recognized Indian tribes. Two staff
25 transfers will occur from the department of fish and wildlife and, in
26 addition, other agencies may transfer existing staff as necessary.

27 NEW SECTION. **Sec. 4.** The governor's salmon office will undertake
28 activities on a state-wide or evolutionary significant unit basis
29 designed to improve the health of salmon as follows:

30 (1) Negotiation of, or assistance in the negotiation of,
31 international and interstate compacts or treaties affecting salmon;

32 (2) Acting as liaison for the state congressional delegation, the
33 United States congress, and the federal executive branch for issues
34 affecting salmon;

35 (3) Review work plans with federal and tribal governments and state
36 agencies for consistency with applicable laws and treaties. If a plan

1 is found to be deficient, it will be returned, with recommended
2 changes; and

3 (4) Any other services requested by a region that are reasonably
4 related to the development or implementation of a salmon habitat
5 restoration plan.

6 NEW SECTION. **Sec. 5.** Regional councils must be formed for one or
7 more water resource inventory areas as defined for regional fisheries
8 enhancement groups established under chapter 75.50 RCW, including
9 subsequent minor adjustments, and except for the mid-Puget Sound
10 region, which will be split into west and east side regions, and the
11 upper Columbia river region, which will be split into Snake river,
12 Columbia river between Bonneville dam and Grand Coulee dam, and above
13 Grand Coulee dam.

14 NEW SECTION. **Sec. 6.** (1) A regional council must enter into a
15 memorandum of agreement with the ombudsman for the purpose of
16 developing a salmon habitat restoration plan in collaboration with the
17 governor's salmon office.

18 (2) The memorandum of agreement may specify that the governor's
19 salmon office provide for one or more of the following services on
20 behalf of, or in conjunction with, a regional council:

21 (a) Develop, or assist in the development of, an effective science-
22 based salmon habitat restoration plan that meets the requirements of
23 section 8 of this act;

24 (b) Confer with the federal government for the integration of
25 federal requirements, including, but not limited to, water quality
26 standards under the federal clean water act and any standards,
27 performance measures, or actions that may be required under the federal
28 endangered species act;

29 (c) Assist in identifying and obtaining funding for projects to
30 implement a salmon habitat restoration plan; and

31 (d) Assist in obtaining permits or in streamlining the permitting
32 process for categories of projects that will be routinely required to
33 implement the regional plan.

34 (3) The memorandum of agreement will provide for regional council
35 staffing and for the creation of a watershed action team, or multiple
36 teams if deemed necessary to perform the services under subsection (2)

1 of this section, if sufficient federal, state, local, tribal, and
2 nongovernmental funds are available.

3 (4) A watershed action team consists of watershed experts that are
4 local, state, federal, tribal, or nongovernmental employees. The team
5 shall not be a state entity. A nonstate employee recruited to serve on
6 the team retains the same employer and is not considered a state
7 employee. State employees recruited to serve on the team shall be
8 existing employees. The team terminates when the agreed-upon services
9 are completed.

10 NEW SECTION. **Sec. 7.** (1) The regional council consists of: (a)
11 Qualified representatives of cities, counties, state, and tribal
12 governments; (b) conservation districts; (c) regional fisheries
13 enhancement groups; and (d) reasonably balanced representation of
14 economic and environmental interests in the management area.

15 (2) The development of habitat restoration plans may include one or
16 more water resource inventory areas by a single regional council.

17 (3) As provided in subsections (4) and (5) of this section, the
18 regional council may choose an existing planning group as the basis for
19 the regional council or they may form a new group.

20 (4) If the regional council chooses an existing planning group as
21 the basis for the regional council, the planning group shall have been
22 in existence for at least one year before being so chosen. To be
23 considered, the representation of governmental entities and interest
24 groups on such a planning group must be generally similar to the
25 representation identified in subsection (1) of this section. If the
26 regional council finds that the existing group has the required
27 composition and finds that the scope of the group's work is or has been
28 appropriate considering the tasks to be given the regional council
29 under this chapter, then the council may designate the group as the
30 basis for local participation on the regional council. The existing
31 group chosen in this manner, plus any new membership as set out in
32 subsection (1) of this section, constitute the regional council for
33 developing salmon habitat restoration plans under this chapter.

34 (5) The regional council may create a new planning group tailored
35 to the specific geographic area for which salmon habitat restoration
36 plans will be developed.

37 (6) For the purposes of this chapter, a county or conservation
38 district is considered to have territory within a management area only

1 if the territory of the county or conservation district located in one
2 of the water resource inventory areas in the management area
3 constitutes at least fifteen percent of the area of the water resource
4 inventory area.

5 (7) In appointing persons to a regional council, the cities and
6 counties shall ensure that there is reasonably balanced representation
7 of economic and environmental interests in the management area.

8 (8) The governmental entities of the regional council will hold a
9 public meeting to initiate formalization of the regional council within
10 sixty days of the effective date of this act.

11 (9) Each regional council may invite representatives of federal
12 agencies with jurisdiction over the subject matter for which integrated
13 watershed management is being developed by the unit and the managers of
14 major federal lands located within the management area to assist the
15 regional council by participating in the development of salmon habitat
16 restoration plans. These representatives are not members of the
17 planning unit for voting purposes.

18 (10) The regional council will:

19 (a) Select an administrator and an administrative assistant and
20 establish their responsibilities;

21 (b) Meet with the ombudsman and mutually establish the
22 responsibilities of the ombudsman;

23 (c) Administer any available funds to water resource inventory area
24 entities for salmon planning and restoration efforts;

25 (d) Establish a name for the regional council;

26 (e) Contract for restoration services as provided in sections 12
27 through 14 of this act; and

28 (f) Conduct any other activity necessary to develop and implement
29 a salmon habitat restoration plan or any portion thereof.

30 NEW SECTION. **Sec. 8.** A regional council that opts to develop a
31 salmon habitat restoration plan, on its own or in conjunction with the
32 governor's salmon office, shall submit the plan to the ombudsman within
33 three years of the species that is the subject of the restoration plan
34 being listed under the federal endangered species act. The habitat
35 restoration plan shall:

36 (1) Be based on best available science. This criterion includes,
37 but is not limited to, a requirement that the plan and projects receive

1 outside scientific review as appropriate, projects be monitored, and
2 the plan include an adaptive management strategy;

3 (2) Ensure that projects or actions identified in the plan have, to
4 the extent possible, quantifiable standards, performance measures, or
5 objectives;

6 (3) Include strategies to ensure that the plan is implemented.
7 Strategies include sufficient funding and other provisions designed to
8 provide certainty that the plan is implemented. The plan shall also
9 include a strategy specifically designed to encourage citizen
10 participation in implementing the plan. The strategy may include, but
11 is not limited to: Technical assistance, voluntary incentives, permit
12 streamlining, media campaigns, and volunteer initiatives.

13 NEW SECTION. **Sec. 9.** (1) The regional council will address the
14 components of salmon habitat restoration plans under this chapter.

15 (2) In addition to the aspects of salmon habitat restoration plans
16 required in this chapter, the regional council shall identify within
17 the habitat restoration plans: (a) The actions and activities that are
18 necessary to implement the provisions of the salmon habitat restoration
19 plan, to monitor the effectiveness of the implementation, and to
20 provide any needed adaptive management; and (b) the entities
21 responsible for conducting these actions and activities. The regional
22 council shall also identify any entity responsible for the coordinated
23 oversight of these responsibilities.

24 (3)(a) Upon completing its proposed salmon habitat restoration plan
25 for the management area, the regional council shall publish notice of
26 and conduct at least one public hearing in the management area on the
27 proposal. As a minimum, the notice shall be published in one or more
28 newspapers of general circulation in the management area. After
29 considering the public comments and making any changes in its proposal,
30 the regional council may approve the proposal by consensus of all of
31 the members of the regional council or by consensus among the members
32 of the regional council appointed to represent units of general
33 government.

34 (b) Consensus among the members of the regional council appointed
35 to represent units of general government is achieved if each of the
36 members of the regional council appointed to represent the state, to
37 represent tribal government, to directly represent counties, and to
38 directly represent cities records his or her support for the proposed

1 integrated watershed management as part of a recorded vote on the
2 proposal. However, if a representative of tribal government votes to
3 oppose the proposed salmon habitat restoration plan, the governor's
4 salmon office shall immediately initiate government-to-government
5 consultation with the tribal government regarding the portions of the
6 plan that are opposed by the tribal government.

7 (c) If the proposal is approved by the regional council, the unit
8 shall submit the proposal to the governor's salmon office for review.

9 (d) If a proposed salmon habitat restoration plan is returned to
10 the regional council with recommendations for revisions, a revised work
11 plan must be considered.

12 NEW SECTION. **Sec. 10.** (1) Whenever voting is used by a regional
13 council for making decisions, each member appointed to the regional
14 council shall have one vote.

15 (2) A vacancy on a regional council shall be filled by appointment
16 in the same manner prescribed for appointing the position that has
17 become vacant. The regional council shall not interrupt its work to
18 await additional original appointments or appointments to fill any
19 vacancies that may occur in its membership.

20 (3) For the purposes of this chapter, a county is considered to
21 have territory within a management area only if the territory of the
22 county or district located in one of the water resource inventory areas
23 in the management area constitutes at least fifteen percent of the area
24 of the water resource inventory area.

25 **Sec. 11.** RCW 90.82.040 and 1997 c 442 s 105 are each amended to
26 read as follows:

27 (1) Once a WRIA (~~((planning unit))~~) regional council has been
28 organized (~~((and designated a lead agency))~~), ~~((it))~~ either independently
29 or jointly, the lead county or tribe will volunteer to house the
30 council, unless the council agrees to another location. The council
31 shall notify the department and ~~((may))~~ apply to the department for
32 funding assistance for conducting the planning. Funds shall be
33 provided from and to the extent of appropriations made by the
34 legislature to the department expressly for this purpose.

35 (2) Each (~~((planning unit))~~) regional council that has complied with
36 subsection (1) of this section is eligible to receive ~~((fifty))~~ one
37 hundred thousand dollars (~~((for each WRIA))~~) to initiate the planning

1 process. ((The department shall allocate additional funds to WRIA
2 planning units based on need demonstrated by a detailed proposed budget
3 submitted by the planning unit for carrying out the duties of the
4 planning unit. Each WRIA planning unit may receive up to two hundred
5 fifty thousand dollars for each WRIA during the first two year period
6 of planning, with a maximum allocation of five hundred thousand dollars
7 for each WRIA. Funding provided under this section shall be considered
8 a contractual obligation against the moneys appropriated for this
9 purpose.))

10 (3) ((Preference shall be given to planning units requesting
11 funding for conducting multi-WRIA planning under section 108 of this
12 act)) Each regional council will maintain a geographic information
13 system and data base to track potential and completed projects,
14 monitoring efforts, the degree to which a project met its standard,
15 performance measure, or objective, the number of volunteers trained,
16 the number of volunteers deployed, and the cost of each project by fund
17 source.

18 (4) The department may retain up to one percent of funds allocated
19 under this section to defray administrative costs.

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

21 (a) The health of many salmon stocks around the state have declined
22 significantly and are currently in a critical or depressed condition;

23 (b) Citizen involvement is essential if the general decline in
24 salmon health is to be reversed;

25 (c) Citizens can and will show a remarkable level of involvement
26 and commitment to restoring salmon and the healthy rivers and streams
27 that salmon depend on; and

28 (d) This level of involvement will be achieved only if the program
29 is voluntary, nongovernmental, and widely advertised.

30 (2) The legislature therefore declares it is in the public interest
31 to utilize existing regional fishery enhancement groups and other
32 private nonprofit volunteer groups for the habitat volunteer
33 restoration initiative as provided in this chapter.

34 (3) The purpose of sections 13 and 14 of this act is to fund
35 existing volunteer habitat restoration groups to develop, train, and
36 mobilize a substantial volunteer work force to restore salmon health.
37 The initiative shall be designed to create a very high level of public

1 awareness of salmon issues and how citizens can be involved in positive
2 solutions.

3 NEW SECTION. **Sec. 13.** The volunteer habitat restoration account
4 is created in the state treasury. All receipts from legislative
5 appropriations for the purposes of chapter . . . , Laws of 1998 (this
6 act) must be deposited into the account. Moneys in the account may be
7 spent only after appropriation. Expenditures from the account may be
8 used only for volunteer restoration projects undertaken pursuant to
9 section 14 of this act, for technical assistance for the projects, and
10 for the administration of these projects.

11 NEW SECTION. **Sec. 14.** (1) A volunteer habitat restoration
12 initiative is created when a contract is signed by the director of the
13 department of fish and wildlife, an administrator for a regional
14 council, and a nonprofit entity or a collaborative group of nonprofit
15 entities. The contract shall specify the responsibilities of each
16 party to include, but not be limited to, the issues set out in this
17 section.

18 (2) The regional council, in cooperation with the volunteer group,
19 shall identify:

20 (a) The types of projects that are a high priority for salmon
21 restoration and that are appropriate for volunteers to undertake;

22 (b) Priority river or stream segments in which projects should
23 occur;

24 (c) The standard, performance measure, or objective that each
25 project is to achieve;

26 (d) The type of monitoring that should occur for each project;

27 (e) A mechanism to streamline state permit requirements for
28 projects that will implement a salmon habitat restoration plan or have
29 been identified by the department of fish and wildlife as having a high
30 priority for salmon restoration;

31 (f) The duration of the initiative; and

32 (g) The amount of total funds needed and the amount provided by the
33 department of fish and wildlife.

34 (3) The lead entity representing the appropriate local government
35 shall identify:

36 (a) A mechanism to streamline local government permit requirements
37 for projects that will implement a salmon habitat restoration plan or

1 have been identified by the department of fish and wildlife as having
2 a high priority for salmon restoration;

3 (b) Staff resources available to provide training or technical
4 assistance to the project; and

5 (c) The fund sources and total funding, both direct and in-kind,
6 that will be provided to the pilot initiative.

7 (4) The nonprofit entity shall:

8 (a) Recruit volunteers;

9 (b) Provide training appropriate to the project undertaken;

10 (c) Deploy volunteers with sufficient resources to meet the
11 specified standards, performance measures, or objectives established
12 for the project;

13 (d) Seek additional funds from private sponsors;

14 (e) Work with private landowners and governmental entities to
15 identify project opportunities;

16 (f) Work with the appropriate local and state government personnel
17 to identify technical assistance opportunities and permitting
18 obstacles; and

19 (g) Work with the media to develop a high level of public awareness
20 about the initiative.

21 NEW SECTION. **Sec. 15.** Sections 1 through 10 and 12 through 14 of
22 this act constitute a new chapter in Title 75 RCW.

23 NEW SECTION. **Sec. 16.** This act is necessary for the immediate
24 preservation of the public peace, health, or safety, or support of the
25 state government and its existing public institutions, and takes effect
26 immediately.

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