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HOUSE BILL 2976

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State of Washington

56th Legislature

2000 Regular Session

By Representatives Regala and Buck

Read first time 01/25/2000. Referred to Committee on Natural Resources.

1 AN ACT Relating to directing the Washington department of fish and  
2 wildlife to seek endangered species act compliance for hydraulic  
3 projects permitted by the department; adding new sections to chapter  
4 75.20 RCW; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that several  
7 populations of salmonids have been listed in Washington as threatened  
8 or endangered under the federal endangered species act (16 U.S.C. Sec.  
9 1531 et seq.). The legislature finds that it is vitally important to  
10 restore these fish runs where possible. The legislature finds that  
11 project development and other human activities, especially those that  
12 occur within aquatic environs, must occur in a manner that will not  
13 hinder such restoration efforts.

14 The legislature further finds that individuals performing  
15 activities that have an impact on the habitat of salmon are subject to  
16 potential liability for taking these listed species. Similarly the  
17 department of fish and wildlife, which issues permits to use, divert,  
18 obstruct, or change the natural flow or bed of any of the salt or fresh

1 waters of the state, is also potentially liable for taking listed  
2 species.

3 The legislature finds that the department of fish and wildlife has  
4 identified a number of possible responses to this risk of liability,  
5 and has completed a thorough process of collecting public input from  
6 across the state regarding all of these possible responses. The  
7 legislature finds that these responses include negotiating a habitat  
8 conservation plan that will lead to an incidental take permit,  
9 inclusion of department activities within a federal 4(d) rule,  
10 encouraging a consultation of federal agencies, or some combination  
11 thereof. The legislature further finds that additional responses for  
12 the department of fish and wildlife include studying the appropriate  
13 endangered species act compliance approach, submitting existing  
14 hydraulics rules for review by the appropriate federal agencies, or not  
15 taking any action at all.

16 Therefore, the legislature finds that the department of fish and  
17 wildlife should meet with the national marine fisheries service and the  
18 United States fish and wildlife service to discuss an endangered  
19 species compliance agreement for the hydraulic project approval  
20 program.

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

23 The department shall enter into negotiations with the national  
24 marine fisheries service in order to develop an endangered species  
25 compliance agreement for the hydraulic project approval program.

26 If required by the national marine fisheries service as a condition  
27 of obtaining such a permit, the department may enter into negotiations  
28 with other federal agencies, including the environmental protection  
29 agency, in order to obtain assurances relating to the clean water act.

30 NEW SECTION. **Sec. 3.** A new section is added to chapter 75.20 RCW  
31 to read as follows:

32 The department shall ensure that the endangered species compliance  
33 agreement negotiated under section 2 of this act includes a process for  
34 streamlining and integrating hydraulic permits with other permitting  
35 programs, including, but not limited to, forest practices permits.

1        NEW SECTION.   **Sec. 4.**   A new section is added to chapter 75.20 RCW  
2 to read as follows:

3        The department shall update existing rules and adopt new rules as  
4 necessary to implement the endangered species compliance agreement  
5 negotiated under section 2 of this act.   These rules shall be adopted  
6 in a manner consistent with chapter 34.05 RCW.

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