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**SECOND SUBSTITUTE SENATE BILL 5064**

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**State of Washington****54th Legislature****1995 Regular Session**

**By** Senate Committee on Ways & Means (originally sponsored by Senators Owen, Drew and Oke)

Read first time 03/06/95.

1       AN ACT Relating to regional fisheries enhancement program; amending  
2 RCW 75.52.035, 75.50.110, and 75.50.120; reenacting and amending RCW  
3 75.50.100; adding new sections to chapter 75.50 RCW; adding new  
4 sections to chapter 90.58 RCW; creating new sections; and declaring an  
5 emergency.

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

7       NEW SECTION. **Sec. 1.** The legislature finds that:

8       (1) Regional enhancement groups are a valuable resource for  
9 anadromous fish recovery. They improve critical fish habitat and  
10 directly contribute to anadromous fish populations through fish  
11 restoration technology.

12      (2) Due to a decrease in commercial license and salmon punchcard  
13 sales, regional enhancement groups are receiving less financial  
14 resources at a time when recovery efforts are needed most.

15      (3) To maintain fisheries enhancement groups as an effective  
16 enhancement resource, technical assets of state agencies must be  
17 coordinated and utilized to maximize the financial resources of  
18 regional enhancement groups and overall fish recovery efforts.

1        NEW SECTION.    **Sec. 2.**    The department shall whenever possible  
2 provide timely, no-cost engineering and other technical services as  
3 needed by regional fisheries enhancement groups for structural design  
4 of enhancement projects.   The department may coordinate with other  
5 local, state, and federal agencies, institutions of higher education,  
6 and affected tribes to accomplish this goal.

7        NEW SECTION.    **Sec. 3.**    The department of transportation shall  
8 cooperate with the department to provide timely, no-cost engineering  
9 services needed by regional fisheries enhancement groups for the  
10 removal of impediments to anadromous fish passage caused by state roads  
11 and highways.

12        NEW SECTION.    **Sec. 4.**    The department's habitat division shall work  
13 with cities and counties and regional fisheries enhancement groups to  
14 develop a program to identify and expedite the removal of impediments  
15 to anadromous fish passage.   A priority under this section shall be  
16 projects that immediately increase access to available and improved  
17 spawning and rearing habitat for threatened and endangered stocks.   The  
18 department may contract with cities and counties to assist in the  
19 identification and removal of impediments to anadromous fish passage.

20        A report on the progress of impediment identification and removal  
21 and the need for additional legislative action shall be submitted to  
22 the senate and the house of representatives natural resources  
23 committees no later than January 1, 1996.

24        NEW SECTION.    **Sec. 5.**    The department shall coordinate with  
25 federal, state, and local agencies, tribal governments, and private  
26 business to develop an information bank for the purposes of fish and  
27 habitat enhancement.   The information bank shall include, but is not  
28 limited to, surveys, habitat and land use data, maps, and other fishery  
29 enhancement resources.

30        NEW SECTION.    **Sec. 6.**    The department and the regional fisheries  
31 enhancement group advisory board shall jointly develop accounting  
32 procedures and standards in consultation with the office of financial  
33 management for the use of regional fisheries enhancement group funds.

1        **NEW SECTION.**    **Sec. 7.**    The department shall expand efforts to  
2 distribute and field test coho and chinook salmon remote site  
3 incubators. Whenever possible, remote site incubator placement shall  
4 be coordinated in conjunction with regional fisheries enhancement group  
5 efforts. The department shall not utilize the efforts of the regional  
6 fisheries enhancement groups to supplant or replace existing department  
7 fish production programs. Regional salmon enhancement group projects  
8 that augment fish populations shall be given equal standing with  
9 projects that improve habitat.

10      **NEW SECTION.**    **Sec. 8.**    The department shall provide or approve  
11 opportunities for the establishment of hatchery harvest projects  
12 conducted by regional fisheries enhancement groups. The department  
13 shall identify viable sites in which an excess of returning hatchery  
14 salmon, produced by regional fisheries enhancement groups, may be sold  
15 commercially for profit. Regional fisheries enhancement groups may  
16 propose strategies designed to optimize the revenue from sale of salmon  
17 and salmon parts and to dispose of all salmon and salmon parts that  
18 return to the harvest site. Such strategies must be reviewed and  
19 approved by the department. The department shall report annually on  
20 the progress of the projects to the senate and the house of  
21 representatives natural resources committees beginning January 1, 1996.

22      **Sec. 9.**    RCW 75.52.035 and 1993 sp.s. c 2 s 51 are each amended to  
23 read as follows:

24      The department ((may)) shall authorize the sale of ((surplus))  
25 excess salmon eggs and carcasses by permitted cooperative projects and  
26 regional fisheries enhancement groups for the purposes of ((defraying  
27 the expenses of the cooperative project. In no instance shall the  
28 ~~department allow a profit to be realized through such sales~~)) providing  
29 income to expand fisheries enhancement projects. The department shall  
30 adopt rules to implement this section pursuant to chapter 34.05 RCW.

31      **NEW SECTION.**    **Sec. 10.**    The department shall maintain a minimum of  
32 three and one-half full-time equivalent regional enhancement biologists  
33 to support the regional fisheries enhancement group program. The  
34 department shall make every effort to include at least one full-time  
35 engineer within the regional fisheries enhancement group program.

1        **NEW SECTION.** **Sec. 11.** A new section is added to chapter 90.58 RCW  
2 to read as follows:

3        A regional fisheries enhancement group or cooperative group  
4 project, that is primarily designed to improve fish habitat or fish  
5 passage; has been approved by the department of fish and wildlife; has  
6 been given, or is qualified to be given, a hydraulic permit; and has  
7 been determined by local government to not substantially affect other  
8 concerns of this chapter, is exempt from the permitting requirements of  
9 this chapter. A letter of exemption must be obtained from the local  
10 government, which shall be provided in a timely manner.

11        **Sec. 12.** RCW 75.50.110 and 1990 c 58 s 4 are each amended to read  
12 as follows:

13        A regional fisheries enhancement group advisory board is  
14 established ((to make recommendations to the director)). The advisory  
15 board shall make recommendations regarding regional enhancement group  
16 ((rearing)) project proposals ((and funding of those proposals)),  
17 however, the department has the authority of final approval of project  
18 proposals based solely on biologic criteria, wild stock management  
19 concerns, and compatibility with tribal fishing rights, prior to  
20 funding. The members shall be appointed by the director and consist of  
21 two commercial fishing representatives, two recreational fishing  
22 representatives, ((and three)) one at-large position(s), and two  
23 representatives from regional fisheries enhancement groups. No more  
24 than one advisory board member shall be from the same regional group.  
25 Advisory board members shall serve three-year terms. The advisory  
26 board membership shall include two members serving ex officio to be  
27 nominated, one through the Northwest Indian fisheries commission, and  
28 one through the Columbia river intertribal fish commission. The chair  
29 of the regional fisheries enhancement group advisory board shall be  
30 elected annually by members of the regional fisheries enhancement  
31 advisory board.

32        The duties of the regional fisheries enhancement group advisory  
33 board include: Assistance with resolution of disputes between regional  
34 fisheries enhancement groups and the department; the coordination and  
35 dissemination of information, resources, and finances; the monitoring  
36 of projects and allocation of funds; and the identification of  
37 impediments to regional fisheries enhancement group success and the

1 need for additional legislative action. The regional fisheries  
2 enhancement group advisory board shall meet at least quarterly.

3 The department shall invite the advisory board to comment and  
4 provide input into all relevant policy initiatives including, but not  
5 limited to, wild stock, hatcheries, and habitat restoration efforts.

6 The department may use account funds to provide agency assistance  
7 to the groups. The level of account funds used by the department shall  
8 be determined by the director after review and recommendation by the  
9 regional fisheries enhancement group advisory board and shall not  
10 exceed twenty percent of annual contributions to the account.

11 **Sec. 13.** RCW 75.50.120 and 1990 c 58 s 5 are each amended to read  
12 as follows:

13 The department and the regional fisheries enhancement group  
14 advisory board shall report biennially to the senate ((environment and  
15 natural resources committee,)) and the house of representatives  
16 ((fisheries and wildlife)) natural resources committees, the senate  
17 ways and means committee and house of representatives fiscal  
18 committees, or any successor committees beginning October 1, 1991. The  
19 report shall include but not be limited to the following:

20 (1) An evaluation of enhancement efforts;

21 (2) A description of projects;

22 (3) A region by region accounting of financial contributions and  
23 expenditures including the enhancement group account funds; ((and))

24 (4) Volunteer participation and member affiliation; and

25 (5) Suggestions for legislative action that would further the  
26 enhancement of salmonid resources.

27 The regional fisheries enhancement group advisory board shall make  
28 bi-annual reports to the senate and the house of representatives  
29 natural resources committees. The reports shall include proposals for  
30 legislation and findings as to the success of regional fisheries  
31 enhancement group efforts.

32 **Sec. 14.** RCW 75.50.100 and 1993 sp.s. c 17 s 11 and 1993 c 340 s  
33 53 are each reenacted and amended to read as follows:

34 The dedicated regional fisheries enhancement group account is  
35 created in the custody of the state treasurer. Only the director or  
36 the director's designee may authorize expenditures from the account.  
37 The account is subject to allotment procedures under chapter 43.88 RCW,

1 but no appropriation is required for expenditures. As of January 1,  
2 1996, no regional fisheries enhancement group year ending balance shall  
3 exceed the sum of one hundred thousand dollars, unless the regional  
4 fisheries enhancement advisory group determines that additional funds  
5 are merited for enhancement activities.

6 A surcharge of one dollar shall be collected on each recreational  
7 personal use food fish license sold in the state. A surcharge of one  
8 hundred dollars shall be collected on each commercial salmon fishery  
9 license, each salmon delivery license, and each salmon charter license  
10 sold in the state. The department shall study methods for collecting  
11 and making available, an annual list, including names and addresses, of  
12 all persons who obtain recreational and commercial salmon fishing  
13 licenses. This list may be used to assist formation of the regional  
14 fisheries enhancement groups and allow the broadest participation of  
15 license holders in enhancement efforts. The results of the study shall  
16 be reported to the house of representatives fisheries and wildlife  
17 committee and the senate environment and natural resources committee by  
18 October 1, 1990. All receipts shall be placed in the regional  
19 fisheries enhancement group account and shall be used exclusively for  
20 regional fisheries enhancement group projects for the purposes of RCW  
21 75.50.110. Funds from the regional fisheries enhancement group account  
22 shall not serve as replacement funding for department operated salmon  
23 projects that exist on January 1, 1991.

24 All revenue from the department's sale of salmon carcasses and eggs  
25 that return to group facilities shall be deposited in the regional  
26 fisheries enhancement group account for use by the regional fisheries  
27 enhancement group that produced the surplus. The director shall adopt  
28 rules to implement this section pursuant to chapter 34.05 RCW.

29 NEW SECTION. **Sec. 15.** A new section is added to chapter 90.58 RCW  
30 to read as follows:

31 All permits required for fish enhancement projects shall be  
32 provided at no cost, provided that the enhancement project is designed  
33 to benefit the fish and wildlife resources of the state, and the fish  
34 and wildlife resources are available for use by all citizens of the  
35 state.

36 NEW SECTION. **Sec. 16.** If any provision of this act or its  
37 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other  
2 persons or circumstances is not affected.

3       **NEW SECTION.**   **Sec. 17.** Sections 2 through 8 and 10 are each added  
4 to chapter 75.50 RCW.

5       **NEW SECTION.**   **Sec. 18.** If specific funding for the purposes of  
6 this act, referencing this act by bill number, is not provided by June  
7 30, 1995, in the omnibus appropriations act, this act shall be null and  
8 void.

9       **NEW SECTION.**   **Sec. 19.** This act is necessary for the immediate  
10 preservation of the public peace, health, or safety, or support of the  
11 state government and its existing public institutions, and shall take  
12 effect immediately.

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