

# FINAL BILL REPORT

## 2E2SHB 1336

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Synopsis as Enacted

**Brief Description:** Concerning watershed planning.

**Sponsors:** By House Committee on Appropriations (originally sponsored by Representatives Linville, Kirby, Grant, Rockefeller, Quall, Hunt, Shabro, Jarrett, Delvin, Morris and Conway; by request of Governor Locke).

**House Committee on Agriculture & Natural Resources**  
**House Committee on Appropriations**  
**Senate Committee on Natural Resources, Energy & Water**

**Background:**

Watershed Planning. State watershed planning laws provide a process for conducting watershed planning through a locally initiated process. If planning is conducted under this process, it must include a component on current and future water availability and use. It may include components regarding instream flows, water quality, and habitat.

Watershed planning may be conducted for one watershed or water resource inventory area (WRIA) or it may be conducted for multiple WRIs. For this purpose, the local governments that initiate the process select or create a planning unit and designate a lead agency to provide staff support for the planning unit. Grants are available from the Department of Ecology (DOE) for organizing a planning unit and establishing work schedules, for conducting assessments, studying storage opportunities, and setting instream flows, and for developing a watershed plan and making recommendations for actions to be taken. Once a plan is approved by the planning unit, it is submitted to each of the counties with territory in the watershed or watersheds for which planning was conducted. After publishing notice and conducting at least one public hearing per county, the legislative authorities of these counties are to approve or disapprove of the plan in a joint session. If approved by the counties, the plan is an approved watershed plan.

Other Water-Related Planning in Watersheds. Under the salmon recovery laws, committees evaluate and develop habitat project lists which a local "lead entity" submits to the state's Salmon Recovery Funding Board for ranking and awarding of funding. The DOE is the state agency delegated authority to implement provisions of the federal Clean Water Act. Under that authority, the DOE develops total maximum daily load assessments and allocations (TMDLs) for water bodies that violate water quality standards. The TMDLs are submitted to the U. S. Environmental Protection Agency for approval.

## **Summary:**

Grants. State phase IV grants for watershed plan coordination and oversight are authorized. A planning unit may receive up to: \$100,000 for each of the first three years; and \$50,000 per year for each of two extension years. If planning was conducted for more than one WRIA, an additional \$25,000 per year per additional WRIA may be available for first three years; and an additional \$12,500 per year per additional WRIA for the two extension years. A match of 10 percent is required for the funding. The match may include financial contributions or in-kind goods and services directly related to coordination and oversight functions.

Detailed Implementation Plans. Within one year of accepting phase IV funding, the planning unit must complete a detailed implementation plan. Submitting a detailed implementation plan to the DOE is a condition for receiving grants for the second and all subsequent years of the phase IV grant. The implementation plan must contain strategies to provide sufficient water for: production agriculture; commercial, industrial, and residential use; and instream flows. It must contain time-lines to achieve these strategies and interim milestones to measure progress. It must also clearly define: coordination and oversight responsibilities; any needed interlocal agreements, rules, or ordinances; any needed state or local administrative approvals and permits that must be secured; and specific funding mechanisms. The planning unit must consult with other entities planning in the watershed management area and identify and seek to eliminate any activities or policies that are duplicative or inconsistent.

Approving a Plan - Opting Out. A county legislative authority may choose to opt out of watershed planning if the county's affected territory within a watershed planning area is less than 5 percent of the total territory within the area. It may also opt out if its part of the planning area is 5 percent or more with the consent of all other governments that initiated planning in the area. The county must notify the DOE and the other initiating governments of that choice prior to the beginning of the process to adopt the plan. Such a county is not bound by obligations contained in the watershed plan.

Effect of a Plan. If the DOE participated in the planning process leading to the adoption of a watershed plan under the watershed planning laws, the plan is deemed to satisfy the watershed planning authority of the DOE with respect to the components included in the plan for the watershed. The DOE must use such a plan as the framework for making future water resource decisions for the watershed and must rely upon the plan as a primary consideration in determining the public interest related to those decisions. Once a watershed plan has been approved under these laws for a watershed, the DOE may develop and adopt modifications to the plan or obligations imposed by the plan only through a form of negotiated rule-making that uses the same processes that applied in that watershed for developing the plan.

Reports. By December 1, 2003, and by December 1st of each subsequent year, the DOE

must report to the Legislature regarding: statutory changes necessary to enable state agency approval or permit decision making needed to implement an approved plan; and on the progress of setting instream flows as part of watershed planning and otherwise.

Other. A state agency may adopt policies, procedures, or agreements related to the obligations or implementation of the obligations in addition to or in lieu of adopting implementing rules if the agency has the consent of the planning unit to do so. Entities carrying out their obligations under a watershed plan should annually review implementation needs with respect to budget and staffing and organizations voluntarily accepting such an obligation must additionally adopt policies, procedures, agreements, rules, or ordinances for carrying out those obligations.

**Votes on Final Passage:**

House 56 41  
Senate 37 11 (Senate amended)

First Special Session

House 73 24  
Senate 31 13

**Effective:** September 9, 2003