
HOUSE BILL 1309

State of Washington

53rd Legislature

1993 Regular Session

By Representatives King, Orr, Scott, G. Cole, Basich, Lemmon, Morris, Jones, Rust, Holm, R. Meyers, Johanson, J. Kohl, Jacobsen and Leonard

Read first time 01/22/93. Referred to Committee on Fisheries & Wildlife.

1 AN ACT Relating to fish and wildlife management; amending RCW
2 90.03.360, 43.20.230, 43.21A.064, and 90.42.010; adding a new section
3 to chapter 75.28 RCW; adding a new section to chapter 79.01 RCW; adding
4 a new section to chapter 77.12 RCW; adding a new section to chapter
5 43.99E RCW; adding a new section to chapter 90.22 RCW; adding a new
6 chapter to Title 28A RCW; and creating new sections.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that many wild stocks
9 of salmonids in the state of Washington are in a state of decline.
10 Stocks of salmon on the Columbia river have been listed under the
11 federal endangered species act, and the bull trout has been petitioned
12 for listing. Some scientists believe that numerous other stocks of
13 salmonids in the Pacific Northwest are in decline or possibly extinct.
14 The legislature declares that to lose wild stocks is detrimental to the
15 genetic integrity of the fisheries resource and the economy, and will
16 represent the loss of a vital component of Washington's aquatic
17 ecosystems. The legislature further finds that there is a continuing
18 loss of habitat for fish and wildlife. The legislature declares that
19 steps must be taken in the areas of wildlife and fish habitat

1 management, water conservation, wild salmonid stock protection, and
2 education to prevent further losses of Washington's fish and wildlife
3 heritage.

4 NEW SECTION. **Sec. 2.** By December 31, 1993, the departments of
5 fisheries and wildlife jointly with the appropriate Indian tribes,
6 shall each establish a wild salmonid policy. The policy shall ensure
7 that department actions and programs are consistent with the goals of
8 maintaining desired wild stock populations and production levels and
9 commercial and recreational fishing opportunities.

10 NEW SECTION. **Sec. 3.** By December 31, 1993, the department of
11 fisheries and the department of wildlife shall each, with input from
12 the Indian tribes, report to the appropriate legislative committees on
13 the feasibility of selective marking techniques that can be used to
14 minimize impacts of fishing on wild or natural stocks of salmonids.
15 The report shall address costs, benefits, and risks associated with
16 marking.

17 NEW SECTION. **Sec. 4.** A new section is added to chapter 75.28 RCW
18 to read as follows:

19 The department shall evaluate salmon fishing methods or gear types
20 that have been developed by the commercial fishing industry for
21 selective fishing of hatchery stocks in the mixed stock fishery and
22 shall present results of the evaluation to the appropriate legislative
23 committees by December 31, 1995. Beginning January 1, 1997, the
24 director shall not renew commercial salmon fishing licenses for
25 licensees that do not use fishing methods that allow selective fishing
26 of hatchery stocks in the mixed stock fishery.

27 NEW SECTION. **Sec. 5.** The conservation commission shall appoint a
28 technical advisory committee to develop recommended wildlife and fish
29 habitat management standards that may be used in conjunction with land
30 management activities in agriculture and range management. These
31 standards shall be designed to restore sufficient habitat to preserve,
32 protect, and perpetuate wildlife and fish. The technical advisory
33 committee shall consist of representatives of interests including
34 agriculture, academia, range management, utilities, Indian tribes,
35 environmental groups, and the departments of wildlife, ecology,

1 fisheries, and natural resources. The commission shall ensure
2 completion of these habitat management standards by August 31, 1994,
3 and shall report to the appropriate legislative committees by that
4 date. The commission shall ensure that the standards are made
5 available to the public.

6 NEW SECTION. **Sec. 6.** A new section is added to chapter 79.01 RCW
7 to read as follows:

8 Beginning December 31, 1994, the commissioner of public lands shall
9 manage department agricultural and grazing leases subject to
10 application of the standards developed under section 5 of this act.
11 Renewal of agricultural or grazing leases that expire before December
12 31, 1997, shall be subject to a contingency clause that conditions
13 continuance of the lease after three years from the effective date of
14 the lease on compliance with the standards developed under section 5 of
15 this act.

16 NEW SECTION. **Sec. 7.** A new section is added to chapter 77.12 RCW
17 to read as follows:

18 Beginning December 31, 1994, the director shall manage department
19 agricultural and grazing leases subject to application of the standards
20 developed under section 5 of this act. Renewal of agricultural or
21 grazing leases that expire before December 31, 1997, shall be subject
22 to a contingency clause that conditions continuance of the lease after
23 three years from the effective date of the lease on compliance with the
24 standards developed under section 5 of this act.

25 NEW SECTION. **Sec. 8.** Washington State University shall report to
26 the appropriate legislative committees by December 31, 1993, on how to
27 best integrate fish and wildlife considerations with the existing
28 curriculum in the university's agriculture department and with the
29 university cooperative extension service. The university shall also
30 report on the feasibility and cost of creating a rotational assignment
31 with the department of wildlife to accomplish cross-training in
32 wildlife and fish habitat management and farm and grazing management.

33 **Sec. 9.** RCW 90.03.360 and 1989 c 348 s 6 are each amended to read
34 as follows:

1 The owner or owners of any ditch or canal shall maintain, to the
2 satisfaction of the department of ecology, substantial controlling
3 works, and a measuring device at the point where the water is diverted,
4 and these shall be so constructed and maintained as to permit accurate
5 measurement and practical regulation of the flow of water diverted into
6 said ditch or canal. Every owner or manager of a reservoir for the
7 storage of water shall construct and maintain, when required by the
8 department, any measuring device necessary to ascertain the natural
9 flow into and out of said reservoir.

10 Metering of diversions or measurement by other approved methods
11 ~~((may))~~ shall be required as a condition for all new and previously
12 existing water right permits. The department ~~((may))~~ shall also
13 require, as a condition for such permits, reports regarding such
14 metered diversions as to the amount of water being diverted. Such
15 reports shall be in a form prescribed by the department.

16 NEW SECTION. **Sec. 10.** A new section is added to chapter 43.99E
17 RCW to read as follows:

18 The department of ecology shall require that agricultural water
19 purveyors completing a conservation plan as part of an application for
20 proceeds from the sale of bonds under RCW 43.99E.025 identify whether
21 and how rate structures could provide an incentive to water users to
22 conserve water.

23 **Sec. 11.** RCW 43.20.230 and 1989 c 348 s 12 are each amended to
24 read as follows:

25 Consistent with the water resource planning process of the
26 department of ecology, the department of ~~((social—and))~~ health
27 ~~((services))~~ shall, contingent on the availability of funds:

28 (1) Develop procedures and guidelines relating to water use
29 efficiency, as defined in section 4(3) ~~((of this act))~~, chapter 348,
30 Laws of 1989, to be included in the development and approval of cost-
31 efficient water system plans required under RCW 43.20.050;

32 (2) Develop criteria, with input from technical experts, with the
33 objective of encouraging the cost-effective reuse of greywater and
34 other water recycling practices, consistent with protection of public
35 health and water quality; ~~((and))~~

1 (3) Provide advice and technical assistance upon request in the
2 development of water use efficiency plans and model rate-setting
3 formulas; and

4 (4) Develop alternative model rate-setting formulas for water
5 conservation and provide these to public water purveyors.

6 **Sec. 12.** RCW 43.21A.064 and 1977 c 75 s 46 are each amended to
7 read as follows:

8 The director of the department of ecology shall have the following
9 powers and duties:

10 (1) The supervision of public waters within the state and their
11 appropriation, diversion, and use, and of the various officers
12 connected therewith;

13 (2) Insofar as may be necessary to assure safety to life or
14 property, he shall inspect the construction of all dams, canals,
15 ditches, irrigation systems, hydraulic power plants, and all other
16 works, systems, and plants pertaining to the use of water, and ((he))
17 the director may require such necessary changes in the construction or
18 maintenance of said works, to be made from time to time, as will
19 reasonably secure safety to life and property;

20 ((He shall)) To regulate and control the diversion of water in
21 accordance with the rights thereto;

22 ((He shall)) To develop alternative rate-setting formulas for
23 water conservation and provide these to irrigation districts;

24 To determine the discharge of streams and springs and other
25 sources of water supply, and the capacities of lakes and of reservoirs
26 whose waters are being or may be utilized for beneficial purposes;

27 ((+5) He shall)) (6) To keep such records as may be necessary for
28 the recording of the financial transactions and statistical data
29 thereof, and shall procure all necessary documents, forms, and blanks.
30 ((He)) The director shall keep a seal of the office, and all
31 certificates by ((him)) the director covering any of his or her acts or
32 the acts of ((his)) the office, or the records and files of ((his)) the
33 office, under such seal, shall be taken as evidence thereof in all
34 courts;

35 ((+6) He shall)) (7) To render when required by the governor, a
36 full written report of the work of ((his)) the office with such
37 recommendations for legislation as he or she may deem advisable for the
38 better control and development of the water resources of the state;

1 (~~(7) The director and~~) (8) In addition to duly authorized
2 deputies, may administer oaths;

3 (~~(8) He shall~~) (9) To establish and promulgate rules governing
4 the administration of chapter 90.03 RCW;

5 (~~(9) He shall~~) (10) To perform such other duties as may be
6 prescribed by law.

7 NEW SECTION. Sec. 13. By December 31, 1993, the director of the
8 department of ecology and the secretary of health shall recommend to
9 the appropriate legislative committees whether there is a need for
10 additional cost-share programs as incentives for water purveyors to
11 adopt water conservation measures.

12 NEW SECTION. Sec. 14. By December 31, 1994, each of the following
13 water purveyors of potable water or water for irrigation shall evaluate
14 the feasibility of adopting and implementing water delivery rate
15 structures that encourage water conservation:

- 16 (1) Public water systems operated by a city or town;
- 17 (2) Public utility districts;
- 18 (3) Water districts;
- 19 (4) Public water companies with more than one thousand service
20 connections;
- 21 (5) Counties; and
- 22 (6) Irrigation districts.

23 Each water purveyor shall submit the evaluation and supporting
24 documentation to the departments of ecology and health and to the
25 appropriate committees of the legislature.

26 NEW SECTION. Sec. 15. A new section is added to chapter 90.22 RCW
27 to read as follows:

28 By December 31, 1993, the department of ecology and the Indian
29 tribes shall, in cooperation with the departments of fisheries and
30 wildlife, establish a state-wide list of priorities for evaluation and
31 implementation of minimum flows. In establishing these priorities, the
32 department shall consider the achievement of wild salmonid production
33 as its primary goal.

34 The priority list shall be presented to the appropriate legislative
35 committees and to the water resources forum by December 31, 1993.

1 **Sec. 16.** RCW 90.42.010 and 1991 c 347 s 5 are each amended to read
2 as follows:

3 (1) The legislature finds that a need exists to develop and test a
4 means to facilitate the voluntary transfer of water and water rights,
5 including conserved water, to provide water for presently unmet needs
6 and emerging needs. Further, the legislature finds that water
7 conservation activities have the potential of affecting the quantity of
8 return flow waters to which existing water right holders have a right
9 to and rely upon. It is the intent of the legislature that persons
10 holding rights to water, including return flows, not be adversely
11 affected in the implementation of the provisions of this chapter.

12 The purpose of this chapter is to provide the mechanism for
13 accomplishing this in a manner that will not impair existing rights to
14 water and to test the mechanism in two pilot planning areas designated
15 pursuant to RCW 90.54.045(2) and in the water resource inventory areas
16 designated under subsection (2) of this section.

17 (2) The department may designate up to four water resource
18 inventory areas west of the crest of the Cascade mountains and up to
19 four water resource inventory areas east of the crest of the Cascade
20 mountains, as identified pursuant to chapter 90.54 RCW. The areas
21 designated shall contain critical water supply problems and shall
22 provide an opportunity to test and evaluate a variety of applications
23 of RCW 90.42.010 through 90.42.090, including application to municipal,
24 industrial, and agricultural use. The department shall seek advice
25 from appropriate state agencies, Indian tribes, local governments,
26 representatives of water right holders, and interested parties before
27 identifying such water resource inventory areas.

28 (3) The department shall provide to the appropriate legislative
29 committees by December 31, 1993, a written evaluation of the
30 implementation of RCW 90.42.010 through 90.42.090 and recommendations
31 for future application. Recommendations shall include methods of
32 applying RCW 90.42.010 through 90.42.090 to the rivers that are
33 designated as high priority by the department of ecology under section
34 15 of this act in order to use net water savings to enhance stream
35 flows.

36 NEW SECTION. **Sec. 17.** The governor shall appoint a fish and
37 wildlife education council, or use the existing governor's council on

1 environmental education created in 1990 by executive order 90-06, to
2 accomplish the following:

3 (1) Raise and distribute public and private funds for the purpose
4 of providing environmental education programs, emphasizing the
5 importance of species conservation and fish and wildlife as indicators
6 of ecosystem health, and projects in fish and wildlife preservation and
7 management to public and private elementary and secondary schools; and

8 (2) Support the interdisciplinary programs that integrate fish and
9 wildlife preservation and management with other areas of environmental
10 education.

11 NEW SECTION. **Sec. 18.** If a new fish and wildlife education
12 council is appointed under section 17 of this act, it shall not
13 commence its duties until:

14 (1) Legislation is enacted that makes specific moneys available for
15 council activities, referencing this act by bill number, chapter
16 number, or statute; or

17 (2) Moneys from private or public donors are made available for
18 council activities.

19 NEW SECTION. **Sec. 19.** Sections 17 and 18 of this act shall
20 constitute a new chapter in Title 28A RCW.

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