

CERTIFICATION OF ENROLLMENT

**ENGROSSED SECOND SUBSTITUTE SENATE BILL 5064**

Chapter 367, Laws of 1995

(partial veto)

54th Legislature  
1995 Regular Session

REGIONAL FISHERIES ENHANCEMENT PROGRAM--REVISIONS

EFFECTIVE DATE: 5/16/95

Passed by the Senate April 18, 1995  
YEAS 47 NAYS 0

JOEL PRITCHARD

\_\_\_\_\_  
**President of the Senate**

Passed by the House April 10, 1995  
YEAS 96 NAYS 0

CLYDE BALLARD

\_\_\_\_\_  
**Speaker of the  
House of Representatives**

Approved May 16, 1995, with the  
exception of sections 4, 8, and 9,  
which are vetoed.

MIKE LOWRY

\_\_\_\_\_  
**Governor of the State of Washington**

CERTIFICATE

I, Marty Brown, Secretary of the  
Senate of the State of Washington,  
do hereby certify that the attached  
is **ENGROSSED SECOND SUBSTITUTE  
SENATE BILL 5064** as passed by the  
Senate and the House of  
Representatives on the dates hereon  
set forth.

MARTY BROWN

\_\_\_\_\_  
**Secretary**

FILED

May 16, 1995 - 11:17 a.m.

**Secretary of State  
State of Washington**

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ENGROSSED SECOND SUBSTITUTE SENATE BILL 5064

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AS AMENDED BY THE HOUSE

Passed Legislature - 1995 Regular Session

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 75.50.110, 75.50.120, and 75.08.230; reenacting and amending RCW  
3 75.50.100; adding new sections to chapter 75.50 RCW; adding a new  
4 section to chapter 90.58 RCW; and declaring an emergency.

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

6            NEW SECTION.    **Sec. 1.** A new section is added to chapter 75.50 RCW  
7 to read as follows:

8            The legislature finds that:

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

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

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

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 75.50 RCW  
2 to read as follows:

3        The department's habitat division shall work with cities, counties,  
4 and regional fisheries enhancement groups to develop a program to  
5 identify and expedite the removal of human-made or caused impediments  
6 to anadromous fish passage. A priority shall be given to projects that  
7 immediately increase access to available and improved spawning and  
8 rearing habitat for depressed, threatened, and endangered stocks. The  
9 department may contract with cities and counties to assist in the  
10 identification and removal of impediments to anadromous fish passage.

11        A report on the progress of impediment identification and removal  
12 and the need for any additional legislative action shall be submitted  
13 to the senate and the house of representatives natural resources  
14 committees no later than January 1, 1996.

15        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 75.50 RCW  
16 to read as follows:

17        To maximize available state resources, the department and the  
18 department of transportation shall work in partnership with the  
19 regional fisheries enhancement group advisory board to identify  
20 cooperative projects to eliminate fish passage barriers caused by state  
21 roads and highways. The advisory board may provide input to the  
22 department to aid in identifying priority barrier removal projects that  
23 can be accomplished with the assistance of regional fisheries  
24 enhancement groups. The department of transportation shall provide  
25 engineering and other technical services to assist regional fisheries  
26 enhancement groups with fish passage barrier removal projects, provided  
27 that the barrier removal projects have been identified as a priority by  
28 the department of fish and wildlife and the department of  
29 transportation has received an appropriation to continue the fish  
30 barrier removal program.

31        *\*NEW SECTION.    Sec. 4.*    *A new section is added to chapter 90.58 RCW*  
32 *to read as follows:*

33        *A regional fisheries enhancement group or cooperative group project*  
34 *that is primarily designed to improve fish habitat or fish passage; has*  
35 *been approved by the department of fish and wildlife; has been given or*  
36 *is qualified to be given a hydraulic permit; and has been determined by*  
37 *local government to not substantially affect other concerns of this*

1 *chapter is exempt from the permitting requirements of this chapter. A*  
2 *letter of exemption must be obtained from the local government, which*  
3 *shall be provided in a timely manner.*

4 \*Sec. 4 was vetoed. See message at end of chapter.

5 **Sec. 5.** RCW 75.50.110 and 1990 c 58 s 4 are each amended to read  
6 as follows:

7 (1) A regional fisheries enhancement group advisory board is  
8 established to make recommendations to the director. (~~The advisory~~  
9 ~~board shall make recommendations regarding regional enhancement group~~  
10 ~~rearing project proposals and funding of those proposals.~~) The  
11 members shall be appointed by the director and consist of two  
12 commercial fishing representatives, two recreational fishing  
13 representatives, and three at-large positions. At least two of the  
14 advisory board members shall be members of a regional fisheries  
15 enhancement group. Advisory board members shall serve three-year  
16 terms. The advisory board membership shall include two members serving  
17 ex officio to be nominated, one through the Northwest Indian fisheries  
18 commission, and one through the Columbia river intertribal fish  
19 commission. The chair of the regional fisheries enhancement group  
20 advisory board shall be elected annually by members of the regional  
21 fisheries enhancement advisory board. The advisory board shall meet at  
22 least quarterly. All meetings of the advisory board shall be open to  
23 the public under the open public meetings act, chapter 42.30 RCW.

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

27 (2) Members shall not be compensated but shall receive  
28 reimbursement for travel expenses in accordance with RCW 43.03.050 and  
29 43.03.060.

30 (3) The department may use account funds to provide agency  
31 assistance to the groups, to provide professional, administrative or  
32 clerical services to the advisory board, or to implement the training  
33 and technical services plan as developed by the advisory board pursuant  
34 to section 6 of this act. The level of account funds used by the  
35 department shall be determined by the director after review ((and)) of  
36 recommendation by the regional fisheries enhancement group advisory  
37 board and shall not exceed twenty percent of annual contributions to  
38 the account.

1        NEW SECTION.    **Sec. 6.**    A new section is added to chapter 75.50 RCW  
2 to read as follows:

3        (1) The regional fisheries enhancement group advisory board shall:

4        (a) Assess the training and technical assistance needs of the  
5 regional fisheries enhancement groups;

6        (b) Develop a training and technical assistance services plan in  
7 order to provide timely, topical technical assistance and training  
8 services to regional fisheries enhancement groups. The plan shall be  
9 provided to the director and to the senate and house of representatives  
10 natural resources committees no later than October 1, 1995, and shall  
11 be updated not less than every year. The advisory board shall provide  
12 ample opportunity for the public and interested parties to participate  
13 in the development of the plan. The plan shall include but is not  
14 limited to:

15        (i) Establishment of an information clearinghouse service that is  
16 readily available to regional fisheries enhancement groups. The  
17 information clearinghouse shall collect, collate, and make available a  
18 broad range of information on subjects that affect the development,  
19 implementation, and operation of diverse fisheries and habitat  
20 enhancement projects. The information clearinghouse service may  
21 include periodical news and informational bulletins;

22        (ii) An ongoing program in order to provide direct, on-site  
23 technical assistance and services to regional fisheries enhancement  
24 groups. The advisory board shall assist regional fisheries enhancement  
25 groups in soliciting federal, state, and local agencies, tribal  
26 governments, institutions of higher education, and private business for  
27 the purpose of providing technical assistance and services to regional  
28 fisheries enhancement group projects; and

29        (iii) A cost estimate for implementing the plan;

30        (c) Propose a budget to the director for operation of the advisory  
31 board and implementation of the technical assistance plan;

32        (d) Make recommendations to the director regarding regional  
33 enhancement group project proposals and funding of those proposals; and

34        (e) Establish criteria for the redistribution of unspent project  
35 funds for any regional enhancement group that has a year ending balance  
36 exceeding one hundred thousand dollars.

37        (2) The regional fisheries enhancement group advisory board may:

38        (a) Facilitate resolution of disputes between regional fisheries  
39 enhancement groups and the department;

- 1 (b) Promote community and governmental partnerships that enhance  
2 the salmon resource and habitat;
- 3 (c) Promote environmental ethics and watershed stewardship;
- 4 (d) Advocate for watershed management and restoration;
- 5 (e) Coordinate regional fisheries enhancement group workshops and  
6 training;
- 7 (f) Monitor and evaluate regional fisheries enhancement projects;
- 8 (g) Provide guidance to regional fisheries enhancement groups; and
- 9 (h) Develop recommendations to the director to address identified  
10 impediments to the success of regional fisheries enhancement groups.

11 **Sec. 7.** 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, including an  
25 inventory of volunteer hours dedicated to the program;
- 26 (5) An evaluation of technical assistance training efforts and  
27 agency participation;
- 28 (6) Identification of impediments to regional fisheries enhancement  
29 group success; and
- 30 (7) Suggestions for legislative action that would further the  
31 enhancement of salmonid resources.

32 **\*Sec. 8.** 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.*

1 The account is subject to allotment procedures under chapter 43.88 RCW,  
2 but no appropriation is required for expenditures.

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

21 All revenue from the department's sale of salmon carcasses and eggs  
22 that return to group facilities shall be deposited in the regional  
23 fisheries enhancement group account for use by the regional fisheries  
24 enhancement group that produced the surplus. Revenue from any  
25 enhancement group's sale of salmon carcasses and eggs conducted  
26 pursuant to section 9 of this act shall also be deposited in the  
27 regional fisheries enhancement group account. The director shall adopt  
28 rules to implement this section pursuant to chapter 34.05 RCW.

29 \*Sec. 8 was vetoed. See message at end of chapter.

30 \*NEW SECTION. Sec. 9. A new section is added to chapter 75.50 RCW  
31 to read as follows:

32 The department shall establish a hatchery egg and carcass take  
33 program for projects conducted by regional fisheries enhancement  
34 groups. Under the program, salmon that have returned to the hatchery  
35 of a regional fisheries enhancement group, and the eggs from those  
36 salmon, may be sold by the group in accordance with rules established  
37 by the department. All proceeds from sales of salmon eggs and  
38 carcasses that return to group facilities shall be deposited in the

1 *dedicated regional fisheries enhancement group account for reallocation*  
2 *to the regional fisheries enhancement group or groups sponsoring the*  
3 *project.*

4 *Prior to engaging in salmon egg sales under this program, the*  
5 *regional fisheries enhancement group shall ensure that all on-station*  
6 *needs are fulfilled and that the eggs are made available for other*  
7 *appropriate department or tribal hatchery needs, or other group*  
8 *projects.*

9 *The department, in consultation with the regional fisheries*  
10 *enhancement group advisory board, shall develop rules in accordance*  
11 *with chapter 34.05 RCW for the purpose of implementing this section.*  
12 *The rules shall include the following:*

13 *(1) Requirements for conducting sales under the program;*

14 *(2) Accounting procedures for tracking sales;*

15 *(3) Provisions for ensuring compliance with the wild salmonid*  
16 *policy established under RCW 75.28.760; and*

17 *(4) Provisions for reallocating proceeds generated under this*  
18 *section to the regional fisheries enhancement group or groups*  
19 *sponsoring the project that generated the proceeds.*

20 *\*Sec. 9 was vetoed. See message at end of chapter.*

21 NEW SECTION. **Sec. 10.** A new section is added to chapter 75.50 RCW  
22 to read as follows:

23 The department shall coordinate with the regional fisheries  
24 enhancement group advisory board to field test coho and chinook salmon  
25 remote site incubators. The purpose of field testing efforts shall be  
26 to gather conclusive scientific data on the effectiveness of coho and  
27 chinook remote site incubators.

28 **Sec. 11.** RCW 75.08.230 and 1993 c 340 s 48 are each amended to  
29 read as follows:

30 (1) Except as provided in this section, state and county officers  
31 receiving the following moneys shall deposit them in the state general  
32 fund:

33 (a) The sale of licenses required under this title;

34 (b) The sale of property seized or confiscated under this title;

35 (c) Fines and forfeitures collected under this title;

36 (d) The sale of real or personal property held for department  
37 purposes;



- 1 (e) Rentals or concessions of the department;  
2 (f) Moneys received for damages to food fish, shellfish or  
3 department property; and  
4 (g) Gifts.

5 (2) The director shall make weekly remittances to the state  
6 treasurer of moneys collected by the department.

7 (3) All fines and forfeitures collected or assessed by a district  
8 court for a violation of this title or rule of the director shall be  
9 remitted as provided in chapter 3.62 RCW.

10 (4) Proceeds from the sale of food fish or shellfish taken in test  
11 fishing conducted by the department, to the extent that these proceeds  
12 exceed the estimates in the budget approved by the legislature, may be  
13 allocated as unanticipated receipts under RCW 43.79.270 to reimburse  
14 the department for unanticipated costs for test fishing operations in  
15 excess of the allowance in the budget approved by the legislature.

16 (5) Proceeds from the sale of salmon carcasses and salmon eggs from  
17 state general funded hatcheries by the department (~~(, to the extent~~  
18 ~~these proceeds exceed estimates in the budget approved by the~~  
19 ~~legislature, may be allocated as unanticipated receipts under RCW~~  
20 ~~43.79.270. Allocations under this subsection shall be made only for~~  
21 ~~hatchery operations partially or wholly financed by sources other than~~  
22 ~~state general revenues or for purposes of processing human consumable~~  
23 ~~salmon for disposal)) of general administration shall be deposited in  
24 the regional fisheries enhancement group account established in RCW  
25 75.50.100.~~

26 (6) Moneys received by the director under RCW 75.08.045, to the  
27 extent these moneys exceed estimates in the budget approved by the  
28 legislature, may be allocated as unanticipated receipts under RCW  
29 43.79.270. Allocations under this subsection shall be made only for  
30 the specific purpose for which the moneys were received, unless the  
31 moneys were received in settlement of a claim for damages to food fish  
32 or shellfish, in which case the moneys may be expended for the  
33 conservation of these resources.

34 (7) Proceeds from the sale of herring spawn on kelp fishery  
35 licenses by the department, to the extent those proceeds exceed  
36 estimates in the budget approved by the legislature, may be allocated  
37 as unanticipated receipts under RCW 43.79.270. Allocations under this  
38 subsection shall be made only for herring management, enhancement, and  
39 enforcement.

1        NEW SECTION.    **Sec. 12.**    If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected.

5        NEW SECTION.    **Sec. 13.**    This act is necessary for the immediate  
6 preservation of the public peace, health, or safety, or support of the  
7 state government and its existing public institutions, and shall take  
8 effect immediately.

        Passed the Senate April 18, 1995.

        Passed the House April 10, 1995.

        Approved by the Governor May 16, 1995, with the exception of  
                certain items which were vetoed.

        Filed in Office of Secretary of State May 16, 1995.

1        Note: Governor's explanation of partial veto is as follows:

2        "I am returning herewith, without my approval as to sections 4, 8,  
3 and 9, Engrossed Second Substitute Senate Bill No. 5064 entitled:

4        "AN ACT Relating to regional fisheries enhancement program;"

5        Engrossed Second Substitute Senate Bill No. 5064 makes changes to  
6 funding and assistance provided to regional fisheries enhancement  
7 groups. It will provide additional needed revenue to these groups by  
8 transferring funds from the sale of eggs and carcasses from state  
9 operated hatcheries to the regional enhancement group account.

10       Section 4 exempts regional fisheries enhancement groups and fish  
11 and wildlife cooperative fish habitat and fish passage projects from  
12 the state Shorelines Management Act. This language is substantially  
13 equivalent to that contained in Substitute Senate Bill No. 5155.  
14 Because Substitute Senate Bill No. 5155 provided this same exemption to  
15 all public groups, including regional fisheries enhancement groups,  
16 this section is unnecessary.

17       Section 8 of Engrossed Second Substitute Senate Bill No. 5064  
18 requires the revenue from the sales of eggs and carcasses authorized  
19 under section 9 to be deposited into the regional fisheries enhancement  
20 group account. Section 9 directs the Department of Fish and Wildlife  
21 to establish a program that will allow each of the twelve regional  
22 fisheries enhancement groups to sell eggs and carcasses from fish  
23 returning to their group project. The revenue from these sales is  
24 deposited into the regional fisheries enhancement group account for  
25 reallocation to the group or groups sponsoring the project.

26       The Department of Fish and Wildlife is authorized under present law  
27 to sell eggs and carcasses from group projects. The revenue from these  
28 sales goes to the regional fisheries enhancement group account for  
29 reallocation to the group or groups sponsoring the project. Allowing  
30 each of the groups to individually undertake sales would make  
31 accountability more difficult and potentially jeopardize the

1 department's present ability to dispose of carcasses from state owned  
2 facilities.

3 I am directing the Department of Fish and Wildlife to work with the  
4 regional fisheries enhancement groups to assure an appropriate level of  
5 income from the sales of eggs and carcasses and to assure distribution  
6 of those funds to these groups.

7 For these reasons, I have vetoed sections 4, 8, and 9 of Engrossed  
8 Second Substitute Senate Bill No. 5064.

9 With the exception of sections 4, 8, and 9, Engrossed Second  
10 Substitute Senate Bill No. 5064 is approved."