
ENGROSSED SENATE BILL 5613

State of Washington

56th Legislature

1999 Regular Session

By Senators Jacobsen and Fraser

Read first time 01/29/1999. Referred to Committee on Natural Resources, Parks & Recreation.

1 AN ACT Relating to salmon recovery measures and planning; amending
2 RCW 75.46.005, 75.46.040, 75.46.060, and 75.46.080; adding new sections
3 to chapter 75.46 RCW; and declaring an emergency.

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

5 **Sec. 1.** RCW 75.46.005 and 1998 c 246 s 1 are each amended to read
6 as follows:

7 The legislature finds that repeated attempts to improve salmonid
8 fish runs throughout the state of Washington have failed to avert
9 listings of salmon and steelhead runs as threatened or endangered under
10 the federal endangered species act (16 U.S.C. Sec. 1531 et seq.).
11 These listings threaten the sport, commercial, and tribal fishing
12 industries as well as the economic well-being and vitality of vast
13 areas of the state. It is the intent of the legislature to begin
14 activities required for the recovery of salmon stocks as soon as
15 possible, although the legislature understands that successful recovery
16 efforts may not be realized for many years because of the life cycle of
17 salmon and the complex array of natural and human-caused problems they
18 face.

1 The legislature finds that it is in the interest of the citizens of
2 the state of Washington for the state to retain primary responsibility
3 for managing the natural resources of the state, rather than abdicate
4 those responsibilities to the federal government, and that the state
5 may best accomplish this objective by integrating local and regional
6 recovery activities into a state-wide strategy that can make the most
7 effective use of provisions of federal laws allowing for a state lead
8 in salmon recovery. The legislature also finds that there is a
9 substantial link between the provisions of the federal endangered
10 species act and the federal clean water act (33 U.S.C. Sec. 1251 et
11 seq.). The legislature further finds that habitat restoration is a
12 vital component of salmon recovery efforts. Therefore, it is the
13 intent of the legislature to specifically address salmon habitat
14 restoration in a coordinated manner and to develop a structure that
15 allows for the coordinated delivery of federal, state, and local
16 assistance to communities for habitat projects that will assist in the
17 recovery and enhancement of salmon stocks.

18 The legislature also finds that credible scientific review and
19 oversight is essential for any salmon recovery effort to be successful.

20 The legislature therefore finds that a coordinated framework for
21 responding to the salmon crisis is needed immediately. To that end,
22 the salmon recovery office should be created within the governor's
23 office to provide overall coordination of the state's response; an
24 independent science team is needed to provide scientific review and
25 oversight; the appropriate local or tribal government should provide
26 local leadership in identifying and sequencing habitat restoration
27 projects to be funded by state agencies; habitat restoration projects
28 should be implemented without delay; and a strong locally based effort
29 to restore salmon habitat should be established by providing a
30 framework to allow citizen volunteers to work effectively.

31 **Sec. 2.** RCW 75.46.040 and 1998 c 246 s 5 are each amended to read
32 as follows:

33 (1) The salmon recovery office is created within the office of the
34 governor to coordinate state strategy to allow for salmon recovery to
35 healthy sustainable population levels with productive commercial and
36 recreational fisheries. The primary purpose of the office is to
37 coordinate and assist in the development of salmon recovery plans for
38 evolutionarily significant units, and to submit those plans to the

1 appropriate tribal governments and federal agencies (~~in response to~~
2 ~~the federal endangered species act~~) as an integral part of a state-
3 wide strategy developed consistent with the guiding principles and
4 procedures under section 3 of this act. The governor's salmon recovery
5 office may also:

6 (a) Act as liaison to local governments, the state congressional
7 delegation, the United States congress, federally recognized tribes,
8 and the federal executive branch agencies for issues related to the
9 state's endangered species act salmon recovery plans; and

10 (b) Provide the biennial state of the salmon report to the
11 legislature pursuant to RCW 75.46.030.

12 (2) This section expires June 30, 2006.

13 NEW SECTION. **Sec. 3.** A new section is added to chapter 75.46 RCW
14 to read as follows:

15 (1) By September 1, 1999, the governor, with the assistance of the
16 salmon recovery office, shall submit a state-wide salmon recovery
17 strategy to the appropriate federal agencies administering the federal
18 endangered species act.

19 (2) The governor and the salmon recovery office shall be guided by
20 the following considerations in developing the strategy:

21 (a) The strategy should identify state-wide initiatives and
22 responsibilities with regional and local watershed initiatives as the
23 principal mechanism for implementing the strategy;

24 (b) The strategy should emphasize collaborative, incentive-based
25 approaches, which rely on the existing statutory enforcement structure;

26 (c) The strategy should address all factors limiting the recovery
27 of Washington's listed salmon stocks, including habitat and water
28 quality degradation, harvest and hatchery management, inadequate
29 streamflows, and other barriers to fish passage. Where other limiting
30 factors are beyond the state's jurisdictional authorities to respond
31 to, such as some natural predators and high seas fishing, the strategy
32 shall include the state's requests for federal action to effectively
33 address these factors;

34 (d) The strategy should identify immediate actions necessary to
35 prevent extinction of a listed salmon stock, establish performance
36 measures to determine if restoration efforts are working, recommend
37 effective monitoring and data management, and recommend to the

1 legislature clear and certain measures to be implemented if performance
2 goals are not met;

3 (e) The strategy shall be developed through an active public
4 involvement process, including early and meaningful opportunity for
5 public comment. In obtaining public comment, the salmon recovery
6 office shall hold public meetings throughout the state and shall
7 encourage regional and local recovery planning efforts to similarly
8 ensure an active public involvement process;

9 (f) The strategy shall rely on the best scientific information
10 available and provide for incorporation of new information as it is
11 obtained;

12 (g) The strategy should seek a fair allocation of the burdens and
13 costs upon economic and social sectors of the state whose activities
14 may contribute to limiting the recovery of salmon; and

15 (h) The strategy should include an element addressing phased
16 relaxation of restrictions as salmon populations recover, and seek
17 clear measures and procedures from the appropriate federal agencies for
18 removing Washington's salmon stocks from listing under the federal act.

19 **Sec. 4.** RCW 75.46.060 and 1998 c 246 s 7 are each amended to read
20 as follows:

21 (1)(a) Counties, cities, and tribal governments must jointly
22 designate, by official resolution, the area for which a habitat
23 restoration project list is to be developed and the lead entity that is
24 to be responsible for submitting the habitat restoration project list.
25 No project included on a habitat restoration project list shall be
26 considered mandatory in nature and no private landowner may be forced
27 or coerced into participation in any respect. The lead entity may be
28 a county, city, conservation district, special district, tribal
29 government, or other entity.

30 (b) The lead entity shall establish a committee that consists of
31 representative interests of counties, cities, conservation districts,
32 tribes, environmental groups, business interests, landowners, citizens,
33 volunteer groups, regional fish enhancement groups, and other
34 restoration interests. The purpose of the committee is to provide a
35 citizen-based evaluation of the projects proposed to promote salmon
36 habitat restoration. The interagency review team may provide the lead
37 entity with organizational models that may be used in establishing the
38 committees.

1 (c) The committee shall compile a list of habitat restoration
2 projects, establish priorities for individual projects, define the
3 sequence for project implementation, and submit these activities as the
4 habitat restoration project list. The committee shall also identify
5 potential federal, state, local, and private funding sources.

6 (d) Projects that include use of side channels, off-stream rearing
7 enhancement, improvement in over-wintering habitat, or use of
8 acclimation ponds shall receive consideration for funding.

9 (2) The area covered by the habitat project list must be based, at
10 a minimum, on a WRIA, combination of WRIs, an evolutionarily
11 significant unit, or any other area as agreed to by the counties,
12 cities, and tribes meeting the requirements of this subsection.
13 Preference will be given to projects in an area that contain a salmon
14 species that is listed or proposed for listing under the federal
15 endangered species act.

16 **Sec. 5.** RCW 75.46.080 and 1998 c 246 s 9 are each amended to read
17 as follows:

18 (1) Representatives from the conservation commission, the
19 department of transportation, and the department of fish and wildlife
20 shall establish an interagency review team. Except as provided in
21 subsection ~~((+6))~~ (7) of this section, habitat restoration project
22 lists shall be submitted to the interagency review team by January 1st
23 and July 1st of each year beginning in 1999.

24 (2) If no lead entity has been formed under RCW 75.46.060, the
25 interagency review team shall rank, prioritize, and dispense funds for
26 habitat restoration projects by giving preference to the projects that:

- 27 (a) Provide a greater benefit to salmon recovery;
28 (b) Will be implemented in a more critical area;
29 (c) Are the most cost-effective;
30 (d) Have the greatest matched, or in-kind funding; and
31 (e) Will be implemented by a sponsor with a successful record of
32 project implementation.

33 (3) Projects that include use of side channels, off-stream rearing
34 enhancement, improvement in over-wintering habitat, or use of
35 acclimation ponds shall receive consideration for funding under the
36 provisions of this section.

1 (4) If a lead entity established under RCW 75.46.060 has been
2 formed, the interagency review team shall evaluate project lists and
3 may remove, but not add, projects from a habitat project list.

4 (~~(4)~~) (5) The interagency review team shall provide a summary of
5 funding for habitat restoration project lists to the governor and to
6 the legislature by December 1st of each year.

7 (~~(5)~~) (6) The interagency review team may annually establish a
8 maximum amount of funding available for any individual project, subject
9 to available funding. The interagency review team shall attempt to
10 assure a geographical balance in assigning priorities to projects.

11 (~~(6)~~) (7) For fiscal year 1998, the department of fish and
12 wildlife, the conservation commission, and the department of
13 transportation may authorize, subject to appropriations, expenditures
14 for projects that have been developed to restore salmon habitat before
15 completion of the project lists required in RCW 75.46.060(2).

16 (~~(7)~~) (8) Where a lead entity has been established pursuant to
17 RCW 75.46.060, the interagency review team may provide block grants to
18 the lead entity, subject to available funding.

19 (9) Prior to finalizing funding decisions under the provisions of
20 this section, the interagency review team shall consult with interests
21 representing irrigated and non-irrigated agriculture, sport and
22 commercial fishing interests, large and small scale timber interests,
23 conservation districts, and county and city governmental interests.

24 NEW SECTION. Sec. 6. A new section is added to chapter 75.46 RCW
25 to read as follows:

26 RCW 75.46.040 and section 3 of this act apply prospectively only
27 and not retroactively. Nothing in this section shall be construed to
28 invalidate actions taken in recovery planning at the local, regional,
29 or state level prior to the effective date of this act.

30 NEW SECTION. Sec. 7. This act is necessary for the immediate
31 preservation of the public peace, health, or safety, or support of the
32 state government and its existing public institutions, and takes effect
33 immediately.

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