
HOUSE BILL 2869

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By Representatives Condotta, Armstrong, Schoesler, Sump, Holmquist, Newhouse, Kristiansen and Clements

Read first time 01/21/2004. Referred to Committee on Fisheries, Ecology & Parks.

1 AN ACT Relating to prohibiting land acquisition projects funded by
2 the salmon recovery funding board; amending RCW 77.85.010 and
3 77.85.060; and reenacting and amending RCW 77.85.130.

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

5 **Sec. 1.** RCW 77.85.010 and 2002 c 210 s 1 are each amended to read
6 as follows:

7 The definitions in this section apply throughout this chapter
8 unless the context clearly requires otherwise.

9 (1) "Adaptive management" means reliance on scientific methods to
10 test the results of actions taken so that the management and related
11 policy can be changed promptly and appropriately.

12 (2) "Critical pathways methodology" means a project scheduling and
13 management process for examining interactions between habitat projects
14 and salmonid species, prioritizing habitat projects, and assuring
15 positive benefits from habitat projects.

16 (3) "Habitat project list" is the list of projects resulting from
17 the critical pathways methodology under RCW 77.85.060(2). Each project
18 on the list must have a written agreement from the landowner on whose
19 land the project will be implemented. Projects include habitat

1 restoration projects, habitat protection projects, habitat projects
2 that improve water quality, habitat projects that protect water
3 quality, habitat-related mitigation projects, and habitat project
4 maintenance and monitoring activities. Projects may not include the
5 acquisition of land in any county in which public land, federal land,
6 and tribal land together constitute seventy-five percent or more of the
7 total area of the county.

8 (4) "Habitat work schedule" means those projects from the habitat
9 project list that will be implemented during the current funding cycle.
10 The schedule shall also include a list of the entities and individuals
11 implementing projects, the start date, duration, estimated date of
12 completion, estimated cost, and funding sources for the projects.

13 (5) "Limiting factors" means conditions that limit the ability of
14 habitat to fully sustain populations of salmon. These factors are
15 primarily fish passage barriers and degraded estuarine areas, riparian
16 corridors, stream channels, and wetlands.

17 (6) "Project sponsor" is a county, city, special district, tribal
18 government, state agency, a combination of such governments through
19 interlocal or interagency agreements, a nonprofit organization,
20 regional fisheries enhancement group, or one or more private citizens.
21 A project sponsored by a state agency may be funded by the board only
22 if it is included on the habitat project list submitted by the lead
23 entity for that area and the state agency has a local partner that
24 would otherwise qualify as a project sponsor.

25 (7) "Salmon" includes all species of the family Salmonidae which
26 are capable of self-sustaining, natural production.

27 (8) "Salmon recovery plan" means a state plan developed in response
28 to a proposed or actual listing under the federal endangered species
29 act that addresses limiting factors including, but not limited to
30 harvest, hatchery, hydropower, habitat, and other factors of decline.

31 (9) "Tribe" or "tribes" means federally recognized Indian tribes.

32 (10) "WRIA" means a water resource inventory area established in
33 chapter 173-500 WAC as it existed on January 1, 1997.

34 (11) "Owner" means the person holding title to the land or the
35 person under contract with the owner to lease or manage the legal
36 owner's property.

1 **Sec. 2.** RCW 77.85.060 and 2000 c 107 s 95 are each amended to read
2 as follows:

3 (1) Critical pathways methodology shall be used to develop a
4 habitat project list and a habitat work schedule that ensures salmon
5 habitat projects will be prioritized and implemented in a logical
6 sequential manner that produces habitat capable of sustaining healthy
7 populations of salmon.

8 (2) The critical pathways methodology shall:

9 (a) Include a limiting factors analysis for salmon in streams,
10 rivers, tributaries, estuaries, and subbasins in the region. The
11 technical advisory group shall have responsibility for the limiting
12 factors analysis;

13 (b) Identify local habitat projects, except land acquisition
14 projects in any county in which public land, federal land, and tribal
15 land together constitute seventy-five percent or more of the total area
16 of the county, that sponsors are willing to undertake. The projects
17 identified must have a written agreement from the landowner on which
18 the project is to be implemented. Project sponsors shall have the lead
19 responsibility for this task;

20 (c) Identify how projects will be monitored and evaluated. The
21 project sponsor, in consultation with the technical advisory group and
22 the appropriate landowner, shall have responsibility for this task;

23 (d) Include a review of monitoring data, evaluate project
24 performance, and make recommendations to the committee established
25 under RCW 77.85.050 and to the technical review team. The technical
26 advisory group has responsibility for this task; and

27 (e) Describe the adaptive management strategy that will be used.
28 The committee established under RCW 77.85.050 shall have responsibility
29 for this task. If a committee has not been formed, the technical
30 advisory group shall have the responsibility for this task.

31 (3) The habitat work schedule shall include all projects developed
32 pursuant to subsection (2) of this section, and shall identify and
33 coordinate with any other salmon habitat project implemented in the
34 region, including habitat preservation projects funded through the
35 Washington wildlife and recreation program, the conservation reserve
36 enhancement program, and other conservancy programs. The habitat work
37 schedule shall also include the start date, duration, estimated date of

1 completion, estimated cost, and, if appropriate, the affected salmonid
2 species of each project. Each schedule shall be updated on an annual
3 basis to depict new activities.

4 **Sec. 3.** RCW 77.85.130 and 2000 c 107 s 102 and 2000 c 15 s 1 are
5 each reenacted and amended to read as follows:

6 (1) The salmon recovery funding board shall develop procedures and
7 criteria for allocation of funds for salmon habitat projects and salmon
8 recovery activities on a statewide basis to address the highest
9 priorities for salmon habitat protection and restoration. To the
10 extent practicable the board shall adopt an annual allocation of
11 funding. The allocation should address both protection and restoration
12 of habitat, and should recognize the varying needs in each area of the
13 state on an equitable basis. The board has the discretion to partially
14 fund, or to fund in phases, salmon habitat projects. The board may
15 annually establish a maximum amount of funding available for any
16 individual project, subject to available funding. No projects required
17 solely as a mitigation or a condition of permitting are eligible for
18 funding.

19 (2)(a) In evaluating, ranking, and awarding funds for projects and
20 activities the board shall give preference to projects that:

21 (i) Are based upon the limiting factors analysis identified under
22 RCW 77.85.060;

23 (ii) Provide a greater benefit to salmon recovery based upon the
24 stock status information contained in the department of fish and
25 wildlife salmonid stock inventory (SASSI), the salmon and steelhead
26 habitat inventory and assessment project (SSHIAP), and any comparable
27 science-based assessment when available;

28 (iii) Will benefit listed species and other fish species; and
29 (iv) Will preserve high quality salmonid habitat.

30 (b) In evaluating, ranking, and awarding funds for projects and
31 activities the board shall also give consideration to projects that:

32 (i) Are the most cost-effective;
33 (ii) Have the greatest matched or in-kind funding; and
34 (iii) Will be implemented by a sponsor with a successful record of
35 project implementation.

36 (3) The board may reject, but not add, projects from a habitat
37 project list submitted by a lead entity for funding. The board may not

1 fund fee simple land acquisition projects in any county in which public
2 land, federal land, and tribal land together constitute seventy-five
3 percent or more of the total area of the county.

4 (4) For fiscal year 2000, the board may authorize the interagency
5 review team to evaluate, rank, and make funding decisions for
6 categories of projects or activities or from funding sources provided
7 for categories of projects or activities. In delegating such authority
8 the board shall consider the review team's staff resources, procedures,
9 and technical capacity to meet the purposes and objectives of this
10 chapter. The board shall maintain general oversight of the team's
11 exercise of such authority.

12 (5) The board shall seek the guidance of the technical review team
13 to ensure that scientific principles and information are incorporated
14 into the allocation standards and into proposed projects and
15 activities. If the technical review team determines that a habitat
16 project list complies with the critical pathways methodology under RCW
17 77.85.060, it shall provide substantial weight to the list's project
18 priorities when making determinations among applications for funding of
19 projects within the area covered by the list.

20 (6) The board shall establish criteria for determining when block
21 grants may be made to a lead entity or other recognized regional
22 recovery entity consistent with one or more habitat project lists
23 developed for that region. Where a lead entity has been established
24 pursuant to RCW 77.85.050, the board may provide grants to the lead
25 entity to assist in carrying out lead entity functions under this
26 chapter, subject to available funding. The board shall determine an
27 equitable minimum amount of funds for each region, and shall distribute
28 the remainder of funds on a competitive basis.

29 (7) The board may waive or modify portions of the allocation
30 procedures and standards adopted under this section in the award of
31 grants or loans to conform to legislative appropriations directing an
32 alternative award procedure or when the funds to be awarded are from
33 federal or other sources requiring other allocation procedures or
34 standards as a condition of the board's receipt of the funds. The
35 board shall develop an integrated process to manage the allocation of
36 funding from federal and state sources to minimize delays in the award
37 of funding while recognizing the differences in state and legislative
38 appropriation timing.

1 (8) The board may award a grant or loan for a salmon recovery
2 project on private or public land when the landowner has a legal
3 obligation under local, state, or federal law to perform the project,
4 when expedited action provides a clear benefit to salmon recovery, and
5 there will be harm to salmon recovery if the project is delayed. For
6 purposes of this subsection, a legal obligation does not include a
7 project required solely as a mitigation or a condition of permitting.

8 (9) The board may condition a grant or loan to include the
9 requirement that property may only be transferred to a federal agency
10 if the agency that will acquire the property agrees to comply with all
11 terms of the grant or loan to which the project sponsor was obligated.
12 Property acquired or improved by a project sponsor may be conveyed to
13 a federal agency, but only if the agency agrees to comply with all
14 terms of the grant or loan to which the project sponsor was obligated.

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