CERTIFICATION OF ENROLLMENT

**HOUSE BILL 1775**

68th Legislature

2023 Regular Session

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| Passed by the House April 14, 2023Yeas 93 Nays 3**Speaker of the House of Representatives**Passed by the Senate April 11, 2023Yeas 31 Nays 18**President of the Senate** | CERTIFICATEI, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1775** as passed by the House of Representatives and the Senate on the dates hereon set forth.Chief Clerk |
| Approved  |  |
| **Governor of the State of Washington** | **Secretary of State** **State of Washington** |

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**HOUSE BILL 1775**

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AS AMENDED BY THE SENATE

Passed Legislature - 2023 Regular Session

**State of Washington 68th Legislature 2023 Regular Session**

**By** Representatives Lekanoff, Chapman, Ramel, and Reed

AN ACT Relating to limiting liability for salmon recovery projects performed by regional fisheries enhancement groups; and amending RCW 77.85.050.

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

**Sec.**  RCW 77.85.050 and 2013 c 194 s 1 are each amended to read as follows:

(1)(a) Counties, cities, and tribal governments must jointly designate, by resolution or by letters of support, the area for which a habitat project list is to be developed and the lead entity that is to be responsible for submitting the habitat project list. No project included on a habitat project list shall be considered mandatory in nature and no private landowner may be forced or coerced into participation in any respect. The lead entity may be a county, city, conservation district, special district, tribal government, regional recovery organization, or other entity.

(b) The lead entity shall establish a committee that consists of representative interests of counties, cities, conservation districts, tribes, environmental groups, business interests, landowners, citizens, volunteer groups, regional fish enhancement groups, and other habitat interests. The purpose of the committee is to provide a citizen-based evaluation of the projects proposed to promote salmon habitat.

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

(2) The area covered by the habitat project list must be based, at a minimum, on a WRIA, combination of WRIAs, or any other area as agreed to by the counties, cities, and tribes in resolutions or in letters of support meeting the requirements of this subsection. Preference will be given to projects in an area that contain a salmon species that is listed or proposed for listing under the federal endangered species act.

(3) The lead entity shall submit the habitat project list to the salmon recovery funding board in accordance with procedures adopted by the board.

(4) The recreation and conservation office shall administer funding to support the functions of lead entities.

(5) ((~~A~~)) Except as provided in subsection (6) of this section, a landowner whose land is used for a habitat project that is included on a habitat project list, and who has received notice from the project sponsor that the conditions of this section have been met, or a regional fisheries enhancement group authorized under RCW 77.95.060 performing habitat restoration activities under this chapter, may not be held civilly liable for any property damages resulting from the habitat project regardless of whether or not the project was funded by the salmon recovery funding board. This subsection is subject to the following conditions:

(a) The project was designed by a licensed professional engineer (PE) or a licensed geologist (LG, LEG, or LHG) with experience in riverine restoration;

(b) The project is designed to withstand ((~~one hundred~~)) 100 year floods;

(c) The project is not located within one-quarter mile of an established downstream boat launch;

(d) The project is designed to allow adequate response time for in-river boaters to safely evade in-stream structures; and

(e) If the project includes large wood placement, each individual root wad and each log larger than ten feet long and one foot in diameter must be visibly tagged with a unique numerical identifier that will withstand typical river conditions for at least three years.

(6) A regional fisheries enhancement group performing habitat restoration activities under this chapter may not be held civilly liable for any property damage resulting from a habitat project performed subject to the conditions specified under subsection (5) of this section unless the damage is due to acts or omissions constituting gross negligence or willful or wanton misconduct.

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