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**SENATE BILL 5266**

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

**By** Senators Shewmake, Van De Wege, Conway, Hasegawa, Hunt, Kuderer, Lovick, Nguyen, Nobles, Stanford, Wellman, and C. Wilson; by request of Office of the Governor

AN ACT Relating to the protection and restoration of riparian areas; adding a new section to chapter 89.08 RCW; adding new sections to chapter 77.85 RCW; creating a new section; and providing an expiration date.

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

NEW SECTION. **Sec.**  It is in the best interest of the state, its people, and its natural resources to protect and restore riparian areas, prioritizing those that provide shade and other cobenefits to support salmon recovery, by enhancing salmon habitat and watershed health.

It is the purpose of this act to restore and protect riparian areas, enlisting the stewards of those watersheds through a voluntary riparian grant program for landowners while developing options for compensatory, mitigation, and regulatory measures to achieve progress on riparian protection in support of salmon recovery.

NEW SECTION. **Sec.**  A new section is added to chapter 89.08 RCW to read as follows:

(1) The commission shall establish and administer a riparian grant program. Within funds provided for this purpose, the commission shall develop and implement the riparian grant program to fund protection and restoration of critical riparian management zones. By December 31, 2023 the commission shall adopt standards to achieve, wherever possible, fully functioning riparian ecosystems in priority critical riparian management zones. The standards must be adopted by the commission after coordination with the department of ecology and the department of fish and wildlife, conservation districts, Indian tribes, and other interested stakeholders, and shall consider information from the department of ecology and the department of fish and wildlife's publications, including *Riparian Ecosystems, Volume 1: Science Synthesis and Management Implications (2020)* and *Riparian Ecosystems, Volume 2: Management Recommendations (2020)* as the best available science.

(2) The commission shall, by June 30, 2024, and in coordination with conservation districts, the department of fish and wildlife, the department of ecology, the recreation and conservation office, the Puget Sound partnership, counties, water resource inventory areas organized pursuant to chapter 90.82 RCW, the Brian Abbott fish passage barrier removal board, federally recognized Indian tribes, and the interagency riparian committee created in section 4 of this act, prioritize critical riparian management zones at the watershed or subbasin scale where grant funding under this program would be primarily targeted. The prioritization must be informed by, and consistent with, to the extent practicable, watershed plans developed pursuant to chapter 90.82 RCW, the habitat project list developed pursuant to RCW 77.85.050, and priority projects identified for salmon recovery through agency grant programs.

(3)(a) Conditions for awarding funding for projects under this program should include, but are not limited to:

(i) Adherence to the science-based standards established in subsection (2) of this section;

(ii) Alternative plans subject to approval;

(iii) Tiered incentive rates tied to increasing width and functionality for riparian areas that approach science-based standards for fully functioning riparian ecosystems;

(iv) Allowable expenses to a grantee including, but not limited to, labor, equipment, fencing, mulch, seed, seedling trees, manual weed control, and yearly maintenance costs for up to 10 years;

(v) Native woody trees and shrubs that must be maintained for a minimum of five years or as otherwise set by the commission for each grantee. Vegetation must be chosen to prevent invasive weed populations and ensure survival and successful establishment of plantings; and

(vi) Other requirements as determined by the commission.

(b) Preference and compensation will be given for permanent protection of riparian areas and removal of riparian land from agricultural production or other development by purchase at fair market value.

(4) The commission shall determine appropriate recordkeeping and data collections procedures required for program implementation and shall establish a data management system that allows for coordination between the commission and other agencies on data sharing under the interagency riparian committee created in section 4 of this act. Funded project data may only be released at a subbasin scale.

(5) The commission shall develop and adopt, after coordination with the interagency riparian committee created in section 4 of this act, a program monitoring and adaptive management framework to ensure consistency and compliance with the requirements of the riparian grant program. The program monitoring and adaptive management framework may include, but is not limited to, consideration of: Acres identified as eligible for restoration within a watershed; acres planned to be restored; acres actually planted and maintained; success in targeting and achieving aggregated project implementation resulting in increase in linear miles restored; plan review criteria; and other factors as identified by the commission.

(6) No more than two percent of any funds appropriated for this purpose may be used for targeted outreach activities that focus on critically identified geographic locations for listed salmon species, water quality, or water temperature to produce identified project lists.

(7) No more than four percent of any funds appropriated for this purpose may be used for administrative expenses.

(8) By October 1, 2024, the commission shall provide a report to the appropriate committees of the legislature and the governor on progress, monitoring, and recommendations for next steps.

(9) The commission shall update the criteria and identification and prioritization of the critical riparian management zones by June 30, 2026.

(10) For the purposes of this section, "critical riparian management zone" means the area adjacent to freshwaters, wetlands, and marine waters that provide functions such as water quality, water storage, shade, leaf litter, bank stability, large woody material, and that is in critical need of protection or restoration for salmon recovery.

NEW SECTION. **Sec.**  A new section is added to chapter 77.85 RCW to read as follows:

(1) A salmon riparian habitat policy task force is established in the governor's salmon recovery office. The task force must continue the work of the facilitated roundtables and discussions that were commenced pursuant to the authorization provided in section 117(12), chapter 297, Laws of 2022.

(2) The task force includes representation from the following entities:

(a) Federally recognized tribes;

(b) Local governments;

(c) State natural resource agencies including, but not limited to, the departments of fish and wildlife, ecology, commerce, transportation, and agriculture, the Washington state conservation commission, the Puget Sound partnership, the recreation and conservation office, and the department of natural resources;

(d) Agricultural and livestock producers;

(e) Salmon recovery organizations;

(f) Commercial and recreational fisher organizations;

(g) Business organizations;

(h) Forestry and agriculture organizations; and

(i) Environmental organizations.

(3) By May 1, 2024, the task force must submit a preliminary report to the governor and the relevant committees of the legislature with a final report by June 30, 2024, with recommendations addressing the following topics:

(a) Developing and implementing a compensatory, mitigation, or regulatory program for critical riparian habitat restoration. Options must address the following:

(i) Compensatory, mitigation, or regulatory criteria for agricultural areas;

(ii) Compensatory, mitigation, or regulatory criteria for residential and urban areas;

(iii) Compensatory, regulatory, or mitigation criteria for public land areas; and

(iv) Recommendations for implementation timelines for regulation, compensatory, or mitigation programs;

(b) Recommendations on proposed changes in policy and spending priorities to improve riparian habitat to ensure salmon recovery;

(c) Recommendations for changes to state law for the protection of existing, functioning riparian habitat;

(d) Strategies that can attract private investment in improving and protecting salmon and riparian habitat;

(e) Recommendations for potential modifications to the shoreline management act and growth management act to incorporate department of fish and wildlife recommendations identified in *Riparian Ecosystems, Volume 1: Science Synthesis and Management Implications (2020)* and *Riparian Ecosystems, Volume 2: Management Recommendations (2020)* into either local growth management act critical areas ordinances or shoreline master programs, or both, including recognizing exceptions and alternatives where the standards in that guidance are not achievable;

(f) Other relevant riparian and salmon recovery-related topics designated by the task force.

(4) The governor's salmon office may contract with an independent entity to facilitate the task force facilitation and report required in subsection (3) of this section. The contract is exempt from the competitive procurement requirements in chapter 39.26 RCW.

(5) By June 30, 2025, and annually thereafter, the salmon riparian habitat policy task force shall submit a report to the legislature with updates on riparian habitat restoration and any recommended policy changes necessary to further protect and restore salmon habitat.

(6) This section expires June 30, 2029.

NEW SECTION. **Sec.**  A new section is added to chapter 77.85 RCW to read as follows:

(1) There is created within the governor's salmon recovery office an interagency riparian committee. The committee is responsible for the interagency coordination on riparian protection and restoration, including meeting on a regular basis to:

(a) Share data, mapping, monitoring, and adaptation strategies;

(b) Develop a shared strategy for riparian protection and coordination;

(c) Cooperate on riparian restoration projects and funding, including scientific and monitoring assistance to the state conservation commission in carrying out its duties under the riparian grant program established in section 2 of this act;

(d) Propose to the salmon riparian habitat policy task force established in section 3 of this act targets and benchmarks for monitoring success of voluntary projects;

(e) Propose to the salmon riparian habitat policy task force established in section 3 of this act goals with respect to quantity and quality of riparian habitats protected and restored at, for example, five, 10, 15, and 20-year increments;

(f) Develop jointly with Indian tribes a permanent monitoring and adaptive management program that builds on the work being done by the conservation commission under section 2 of this act and the work from the state-tribal pathways monitoring group. The work includes a process, framework, key questions, data elements, and data systems that support an integrated monitoring program for riparian protection and restoration; and

(g) Evaluate the compliance and enforcement process under the state growth management act and shoreline management act for protecting existing areas with healthy functioning riparian ecosystems.

(2) The departments of fish and wildlife, ecology, and commerce will coordinate with each other and with other agencies on an effectiveness, monitoring, enforcement, and compliance program for critical area ordinances and other compliance with respect to protection of existing, fully functioning riparian critical areas.

(3) The interagency riparian committee includes the following members:

(a) A representative from the governor's salmon recovery office;

(b) The director of the state conservation commission or the director's designee;

(c) The director of the department of ecology or the director's designee;

(d) The director of the department of fish and wildlife or the director's designee;

(e) The director of the department of agriculture or the director's designee;

(f) The director of the department of commerce or the director's designee;

(g) The state land commissioner or the commissioner's designee within the department of natural resources;

(h) The executive director of the Puget Sound partnership or the executive director's designee; and

(i) The secretary of the department of transportation or the secretary's designee.

(4) The interagency riparian committee shall invite engagement with, and coordinate work with, federally recognized tribes.

(5) The interagency riparian committee shall engage with nonprofit and business organizations.

(6) The governor's salmon recovery office can use existing structures and committees for the interagency riparian committee.

(7) The interagency riparian committee shall coordinate work with the governor's salmon strategy biennial work plan.

(8) The interagency riparian committee shall report on its progress and on a monitoring and adaptative management plan by June 30, 2024.

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