
**Agriculture and Natural Resources
Committee**

HB 1215

Brief Description: Concerning the protection and restoration of riparian areas.

Sponsors: Representatives Chapman, Lekanoff, Berry, Kloba, Reed, Simmons, Tharinger, Ramel, Doglio, Macri, Senn and Pollet; by request of Office of the Governor.

Brief Summary of Bill

- Requires the State Conservation Commission to establish and administer a riparian grant program to fund protection and restoration of critical riparian management zones.
- Requires the State Conservation Commission, as part of the riparian grant program, to adopt standards to achieve, wherever possible, fully functioning riparian ecosystems in priority critical riparian management zones.
- Establishes a salmon riparian habitat policy task force within the Governor's Salmon Recovery Office to develop riparian habitat recommendations.
- Creates an interagency riparian committee within the Governor's Salmon Recovery Office for the purpose of coordinating among state agencies on riparian protection and restoration.

Hearing Date: 1/18/23

Staff: Robert Hatfield (786-7117).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

State Conservation Commission.

The State Conservation Commission (Commission) performs several functions, including assisting the state's 47 local conservation districts in carrying out soil, water, and other natural resource conservation projects. It consists of 10 members: two appointed by the Governor, three elected by local district supervisors, and five serving ex officio, including directors of the departments of Ecology and Agriculture, the Commissioner of Public Lands, the President of the Washington Association of Conservation Districts, and the Dean of the Washington State University College of Agriculture.

Riparian Ecosystems, Volume 1: Science Synthesis and Management Implications.

The Department of Fish and Wildlife (WDFW) published *Riparian Ecosystems, Volume 1: Science Synthesis and Management Implications* in May 2018 and updated it in July 2020. It contains reviews and syntheses of scientific literature for the purpose of informing the development of policies related to management of riparian areas and watersheds of Washington. According to *Riparian Ecosystems, Volume 1*, it is designed to answer three general questions:

- What is currently known about the key ecological functions of riparian areas?
- How do riparian areas and watersheds affect the freshwater habitats of fish and wildlife?
- How do human activities affect the capacity of riparian areas and watersheds to provide habitat for fish and wildlife in rivers and streams?

Riparian Ecosystems, Volume 2 - Management Recommendations.

The WDFW published *Riparian Ecosystems, Volume 2: Management Recommendations* in December 2020. The recommendations were published in support of the WDFW's Priority Habitats and Species Program, through which the WDFW works with land use decision makers and landowners to identify solutions that address the needs of landowners and of fish and wildlife. According to *Riparian Ecosystems, Volume 2*, its purpose is to provide guidance to protect and, where possible, restore healthy, intact, and fully functioning riparian ecosystems.

Watershed Plans.

The Watershed Planning Act establishes a process through which local groups can develop and implement plans for managing and protecting local water resources and rights. The local groups authorized to develop watershed plans are organized by water resource inventory areas.

Habitat Project List.

Washington's system of watersheds is divided into eight salmon recovery regions: Hood Canal, Lower Columbia River, Middle Columbia River, Northeast Washington, Puget Sound, Snake River, Southwest Washington, Upper Columbia River, and Washington Coast.

Within those eight regions, counties, cities, and tribal governments jointly designate areas for which a habitat project list is to be developed, and designate the lead entity. The lead entity may be a county, city, conservation district, special district, tribal government, regional recovery organization, or other entity. Once selected, a lead entity must establish a committee to provide citizen-based evaluation of the projects proposed for the habitat project list. Projects eligible for the list include restoration projects, protection projects, projects that improve water quality,

projects that protect water quality, habitat-related mitigation projects, and project maintenance and monitoring activities.

Riparian Habitat Recommendations.

The 2022 State Supplemental Operating Budget appropriated funds for the Governor's office to hire an independent entity to facilitate a process to develop recommendations on proposed changes in policy and spending priorities to improve riparian habitat. Preliminary recommendations were required to be submitted to the Governor and Legislature by October 1, 2022, with final recommendations required to be submitted by November 1, 2022.

Summary of Bill:

Riparian Grant Program.

The State Conservation Commission (Commission) is directed to establish and administer a riparian grant program to fund the protection and restoration of critical riparian management zones. By December 31, 2023, the Commission must adopt standards to achieve, wherever possible, fully functioning riparian ecosystems in priority critical riparian management zones.

In the course of developing the standards, the Commission must consider information from publications prepared by the Department of Ecology (Ecology) and the Department of Fish and Wildlife (WDFW), including *Riparian Ecosystems, Volume 1: Science Synthesis and Management Implications (2020)* and *Riparian Ecosystems, Volume 2: Management Recommendations (2020)*, as the best available science.

The Commission must adopt the standards after coordinating with the following:

- Ecology;
- WDFW;
- conservation districts;
- Indian tribes; and
- interested stakeholders.

By June 30, 2024, the Commission must prioritize critical riparian management zones at the watershed or subbasin scale where grant funding under the riparian grant program would be primarily targeted. The Commission must update the criteria and identification and prioritization of the critical riparian management zones by June 30, 2026. In the course of prioritizing critical riparian management zones, the Commission must coordinate with the following, among others:

- conservation districts;
- WDFW;
- Ecology;
- the Recreation and Conservation Office;
- the Puget Sound Partnership;
- counties;
- water resource inventory areas organized pursuant to the Watershed Planning Act;
- the Brian Abbott Fish Passage Barrier Removal Board;

- federally recognized Indian tribes; and
- the interagency riparian committee.

The prioritization must be informed by, and consistent with, to the extent practicable, the following:

- watershed plans developed pursuant to the Watershed Planning Act;
- the habitat project list developed pursuant to the Salmon Recovery Act; and
- priority projects identified for salmon recovery through agency grant programs.

Conditions for awarding funding for projects under the program should include, but are not limited to:

- adherence to science-based standards;
- alternative plans subject to approval;
- tiered incentive rates tied to increasing width and functionality for riparian areas that approach science-based standards for fully functioning riparian ecosystems;
- 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 ten years;
- 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
- other requirements as determined by the Commission.

Preference and compensation under the riparian grant program 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.

The Commission must determine appropriate recordkeeping and data collection procedures required for program implementation. The Commission must establish a data management system that allows for coordination between the Commission and other agencies.

The Commission must develop and adopt, after coordination with the interagency riparian committee, a program monitoring and adaptive management framework to ensure consistency and compliance with the requirements of the riparian grant program.

No more than two percent of any funds appropriated for the riparian grant program 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. No more than four percent of any funds appropriated for the riparian grant program may be used for administrative expenses.

By October 1, 2024, the Commission must provide a report to the appropriate committees of the Legislature and the Governor on progress, monitoring, and recommendations for next steps.

Critical riparian management zone as defined in the bill is 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.

Salmon Riparian Habitat Policy Task Force.

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 discussions on riparian habitat recommendations that were funded through the 2022 State Supplemental Operating Budget.

The task force includes representation from the following entities:

- federally recognized tribes;
- local governments;
- state natural resources agencies including Ecology, Commerce, WDFW, the Department of Transportation, the Department of Agriculture, the State Conservation Commission, Puget Sound Partnership, Recreation and Conservation Office, and the Department of Natural Resources;
- agricultural and livestock producers;
- salmon recovery organizations;
- commercial and recreational fisher organizations;
- business organizations;
- forestry and agriculture organizations; and
- environmental organizations.

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 due by June 30, 2024. The recommendations must address the following topics, among others:

- developing and implementing a compensatory, mitigation, or regulatory program for critical riparian habitat restoration;
- recommendations on proposed changes in policy and spending priorities to improve riparian habitat to ensure salmon recovery;
- recommendations for changes to state law for the protection of existing, functioning riparian habitat; and
- strategies that can attract private investment in improving and protecting salmon and riparian habitat.

The Governor's Salmon Recovery Office may contract with an independent entity to facilitate the task force facilitation and report. The contract is exempt from competitive procurement requirements.

By June 30, 2025, and annually thereafter, the salmon riparian habitat policy task force must submit a report to the Legislature with updates on riparian habitat restoration, as well as any recommended policy changes necessary to further protect and restore salmon habitat.

The salmon riparian habitat policy task force expires June 30, 2029.

Interagency Riparian Committee.

An interagency riparian committee is created within the Governor's Salmon Recovery Office. The interagency riparian committee is responsible for interagency coordination on riparian protection and restoration, including meeting on a regular basis to accomplish the following tasks, among others:

- sharing data, mapping, monitoring, and adaptation strategies;
- developing a shared strategy for riparian protection and coordination;
- cooperating on riparian restoration projects and funding; and
- developing jointly with Indian tribes a permanent monitoring and adaptive management program that builds on the work done by the Commission as part of the riparian grant program.

Ecology, Commerce, and the WDFW must 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.

The interagency riparian committee includes the following members, among others:

- a representative from the Governor's Salmon Recovery Office;
- the director of the State Conservation Commission or the director's designee;
- the director of Ecology or the director's designee; and
- the director of the WDFW or the director's designee.

The interagency riparian committee must invite engagement with, and coordinate work with, federally recognized tribes. The interagency riparian committee must also engage with nonprofit and business organizations.

The Governor's Salmon Recovery Office can use existing structures and committees for the interagency riparian committee. The interagency riparian committee must coordinate work with the Governor's salmon strategy biennial work plan.

The interagency riparian committee must report on its progress and on a monitoring and adaptive management plan by June 30, 2024.

Appropriation: None.

Fiscal Note: Requested on January 10, 2023.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.