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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

Read first time 01/11/23. Referred to Committee on Agriculture, Water, Natural Resources & Parks.

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

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

6 NEW SECTION. **Sec. 1.** It is in the best interest of the state,  
7 its people, and its natural resources to protect and restore riparian  
8 areas, prioritizing those that provide shade and other cobenefits to  
9 support salmon recovery, by enhancing salmon habitat and watershed  
10 health.

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

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 89.08  
17 RCW to read as follows:

18 (1) The commission shall establish and administer a riparian  
19 grant program. Within funds provided for this purpose, the commission  
20 shall develop and implement the riparian grant program to fund

1 protection and restoration of critical riparian management zones. By  
2 December 31, 2023 the commission shall adopt standards to achieve,  
3 wherever possible, fully functioning riparian ecosystems in priority  
4 critical riparian management zones. The standards must be adopted by  
5 the commission after coordination with the department of ecology and  
6 the department of fish and wildlife, conservation districts, Indian  
7 tribes, and other interested stakeholders, and shall consider  
8 information from the department of ecology and the department of fish  
9 and wildlife's publications, including *Riparian Ecosystems, Volume 1:  
10 Science Synthesis and Management Implications (2020)* and *Riparian  
11 Ecosystems, Volume 2: Management Recommendations (2020)* as the best  
12 available science.

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

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

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

31 (ii) Alternative plans subject to approval;

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

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

38 (v) Native woody trees and shrubs that must be maintained for a  
39 minimum of five years or as otherwise set by the commission for each  
40 grantee. Vegetation must be chosen to prevent invasive weed

1 populations and ensure survival and successful establishment of  
2 plantings; and

3 (vi) Other requirements as determined by the commission.

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

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

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

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

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

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

35 (9) The commission shall update the criteria and identification  
36 and prioritization of the critical riparian management zones by June  
37 30, 2026.

38 (10) For the purposes of this section, "critical riparian  
39 management zone" means the area adjacent to freshwaters, wetlands,  
40 and marine waters that provide functions such as water quality, water

1 storage, shade, leaf litter, bank stability, large woody material,  
2 and that is in critical need of protection or restoration for salmon  
3 recovery.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 77.85  
5 RCW to read as follows:

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

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

- 13 (a) Federally recognized tribes;
- 14 (b) Local governments;
- 15 (c) State natural resource agencies including, but not limited  
16 to, the departments of fish and wildlife, ecology, commerce,  
17 transportation, and agriculture, the Washington state conservation  
18 commission, the Puget Sound partnership, the recreation and  
19 conservation office, and the department of natural resources;
- 20 (d) Agricultural and livestock producers;
- 21 (e) Salmon recovery organizations;
- 22 (f) Commercial and recreational fisher organizations;
- 23 (g) Business organizations;
- 24 (h) Forestry and agriculture organizations; and
- 25 (i) Environmental organizations.

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

- 30 (a) Developing and implementing a compensatory, mitigation, or  
31 regulatory program for critical riparian habitat restoration. Options  
32 must address the following:
  - 33 (i) Compensatory, mitigation, or regulatory criteria for  
34 agricultural areas;
  - 35 (ii) Compensatory, mitigation, or regulatory criteria for  
36 residential and urban areas;
  - 37 (iii) Compensatory, regulatory, or mitigation criteria for public  
38 land areas; and

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

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

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

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

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

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

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

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

29 (6) This section expires June 30, 2029.

30 NEW SECTION. **Sec. 4.** A new section is added to chapter 77.85  
31 RCW to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (g) The state land commissioner or the commissioner's designee  
2 within the department of natural resources;  
3 (h) The executive director of the Puget Sound partnership or the  
4 executive director's designee; and  
5 (i) The secretary of the department of transportation or the  
6 secretary's designee.  
7 (4) The interagency riparian committee shall invite engagement  
8 with, and coordinate work with, federally recognized tribes.  
9 (5) The interagency riparian committee shall engage with  
10 nonprofit and business organizations.  
11 (6) The governor's salmon recovery office can use existing  
12 structures and committees for the interagency riparian committee.  
13 (7) The interagency riparian committee shall coordinate work with  
14 the governor's salmon strategy biennial work plan.  
15 (8) The interagency riparian committee shall report on its  
16 progress and on a monitoring and adaptative management plan by June  
17 30, 2024.

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