

WSR 25-02-045

**ATTORNEY GENERAL OPINION
ATTORNEY GENERAL'S OFFICE**

[Filed December 20, 2024, 8:59 a.m.]

**NOTICE OF REQUEST FOR ATTORNEY GENERAL'S OPINION
WASHINGTON ATTORNEY GENERAL**

The Washington attorney general routinely publishes notice of an opportunity to comment for opinion requests that we receive from the heads of state agencies, state legislators, and county prosecuting attorneys if we anticipate publishing a formal opinion in response to the request. We do so in order to provide members of the public with a chance to provide any legal analysis that they would like us to consider as we develop our opinion. In preparing any comments, please be aware that our opinion will provide our considered legal analysis of the question presented, and therefore comments that address the interpretation of the law are more helpful than comments that express an opinion as to what the law should be.

You may provide your comments to the attorney general's office by email to OpinionComments@atg.wa.gov or by writing to the Office of the Attorney General, Solicitor General Division, Attention Opinions Chief, P.O. Box 40100, Olympia, WA 98504-0100. We will consider any comments we receive before we complete our opinion. Although there is no deadline for submitting comments, comments are the most helpful if received within 30 days of this notice. Comments focused solely on what the law should be are less helpful than comments that interpret current law. You may also request a copy of the opinion request in which you are interested and information about the attorney general's opinion process.

If you are interested in receiving notice of new formal opinion requests via email, you may visit the attorney general's website at <https://www.atg.wa.gov/AGOopinions/opinion> for more information on how to join our AGO opinions list.

The attorney general's office seeks public input on the following opinion request(s):

Opinion Docket No. 24-12-02**Request by Skagit County Prosecuting Attorney Richard Weyrich****QUESTIONS:**

1. Pursuant to RCW Chapter 77.85, by what mechanism and criteria may local and tribal governments within a watershed de-designate a private nonprofit corporation as RCW 77.85.050 (1)(a) lead entity for that watershed?

2. In the alternative, under RCW Chapter 77.85, where a private nonprofit corporation currently asserts standing as a RCW 77.85.050 (1)(a) lead entity within a watershed, may the county, unified dike/drainage districts and a federally recognized Indian tribe within that watershed form a separate RCW 77.85.050 (1)(a) lead entity by which to direct state salmon recovery funding toward strategic governmental objectives, providing a competing list of funding priorities to the state Salmon Funding Recovery Board?

3. By prioritizing, controlling and directing the distribution of state salmon recovery funds in the place of cities and counties, is a nonprofit that has been designed a watershed's RCW 77.85.050 (1)(a) lead entity, and therefore its board of directors, "exercising or undertaking to exercise any of the powers or functions of a municipal officer", within the meaning of RCW 42.23.020(2)?

4. To the extent the answer to question #3 is "yes," does the participation of nonprofit representatives on a RCW 77.85.050 (1)(a) lead entity nonprofit board of directors in the prioritization, selection and/or arrangement of funding contracts with their own nonprofit employers offend the prohibition on beneficial interest in contracts set forth by RCW Chapter 42.23.30?