
SENATE BILL 5986

State of Washington

53rd Legislature

1993 Regular Session

By Senators Barr, Roach, L. Smith, Nelson, Amondson, McDonald, Erwin and McCaslin

Read first time 04/13/93. Referred to Committee on Natural Resources.

1 AN ACT Relating to a state fish and wildlife commission; adding new
2 sections to chapter 77.04 RCW; creating new sections; and repealing RCW
3 77.04.010, 77.04.020, 77.04.030, 77.04.040, 77.04.055, 77.04.060,
4 77.04.080, and 77.04.090.

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

6 NEW SECTION. **Sec. 1.** The department of fish and wildlife is
7 created. The department consists of the state fish and wildlife
8 commission, the director of fish and wildlife, and such other personnel
9 as may be necessary for the efficient performance of the functions of
10 the department.

11 NEW SECTION. **Sec. 2.** (1) There is established a state fish and
12 wildlife commission consisting of seven members appointed by the
13 governor.

14 (2) The term of office of each member is four years. Before the
15 expiration of the term of a member, the governor shall appoint a
16 successor. A member is eligible for reappointment. If there is a
17 vacancy for any cause, the governor shall make an appointment to become

1 effective immediately for the unexpired term. Terms shall be
2 staggered.

3 (3) All appointments of members of the commission by the governor
4 are subject to confirmation by the senate.

5 (4) No member of the commission may hold any office in any sports
6 fishing organization or commercial fishing organization or have any
7 ownership or other direct interest in a commercial fish processing
8 business.

9 (5) No member of the commission may hold another state, county, or
10 municipal elective or appointive office.

11 (6) Members shall:

12 (a) Have experience in fish and wildlife issues;

13 (b) Be able to work with professional experts to develop policy;

14 (c) Have knowledge of government;

15 (d) Have knowledge of state law relating to fish and wildlife; and

16 (e) Have general knowledge of the habits and distribution of fish
17 and wildlife.

18 NEW SECTION. **Sec. 3.** (1) The commission shall select one of its
19 members as chair and another as vice-chair, for such terms and with
20 such duties and powers necessary for the performance of the functions
21 as the commission determines appropriate.

22 (2) A majority of the members of the commission constitutes a
23 quorum for the transaction of business.

24 (3) The commission shall meet at least once every three months at
25 a time and place determined by the commission. The commission shall
26 also meet at such other times and places as are specified by the call
27 of the chair or of a majority of the members of the commission.

28 (4) The commission may also meet jointly with authorities of other
29 states or of the United States to consider problems of mutual interest.

30 NEW SECTION. **Sec. 4.** (1) The commission shall appoint a state
31 fish and wildlife director to serve for a term of four years unless
32 removed sooner by the commission.

33 (2) The director shall:

34 (a) Have substantial professional fish and wildlife experience,
35 comparable to that of a senior professional person working in the
36 wildlife field; and

1 (b) Have considerable experience in working with and managing
2 professional wildlife persons and other personnel necessary for the
3 efficient operation and administration of a department or agency.

4 (3) The commission may delegate to the director any of the
5 administrative authority, powers, and duties granted to or imposed upon
6 it by law.

7 NEW SECTION. **Sec. 5.** (1) The director is the executive head of
8 the state department of fish and wildlife, and shall:

9 (a) Be responsible to the commission for administration and
10 enforcement of the wildlife laws;

11 (b) Appoint, supervise, and control all commission employees and,
12 under the policy direction of the commission, be responsible for all of
13 the commission's functions and activities;

14 (c) Establish such sections and divisions as are necessary to carry
15 out the work of the commission; and

16 (d) Be responsible for the collection, application, and
17 dissemination of information pertinent to the management of the
18 wildlife resources, and to the regulation of the uses of such
19 resources.

20 (2) In times of emergency, the director may exercise with approval
21 of the commission chair the full powers of the commission until such
22 times as the emergency ends or the commission meets in formal session.

23 NEW SECTION. **Sec. 6.** In addition to such divisions as may be
24 established by the director, there is established within the fish and
25 wildlife department a fish division and a wildlife division. The
26 wildlife division shall be responsible for the management of all
27 wildlife, except fish and other marine life, over which the commission
28 has regulatory jurisdiction.

29 NEW SECTION. **Sec. 7.** Before submitting budget requests or
30 information to the governor, the commission shall hold public hearings
31 on proposals for planned expenditures and enhancement packages that the
32 commission intends to recommend to the governor for inclusion in the
33 governor's budget.

34 NEW SECTION. **Sec. 8.** (1) The commission has the authority to
35 formulate and implement the policies and programs of this state for the

1 management of fish and wildlife, and may perform all acts necessary to
2 administer and carry out the provisions of the fish and wildlife laws.

3 (2) The commission may adopt rules to carry out the provisions of
4 the fish and wildlife laws.

5 NEW SECTION. **Sec. 9.** In addition to any other duties or powers
6 provided by law, the commission may:

7 (1) Accept, from whatever source, appropriations, gifts, or grants
8 of money or other property for the purposes of fish and wildlife
9 management, and use such money or property for wildlife management
10 purposes;

11 (2) Sell or exchange property owned by the state and used for
12 wildlife management purposes when the commission determines that such
13 sale or exchange would be advantageous to the state wildlife policy and
14 management programs;

15 (3) Acquire, introduce, propagate, and stock wildlife species in
16 such manner as the commission determines will carry out the state
17 wildlife policy and management programs;

18 (4) By rule authorize the issuance of licenses, tags, and permits
19 for angling, hunting, and trapping and may prescribe such tagging and
20 sealing procedures as the commission determines necessary to carry out
21 the provisions of the wildlife laws or to obtain information for use in
22 wildlife management. Permits issued pursuant to this subsection may
23 include special hunting permits for a person to hunt on land owned by
24 that person in areas where permits for deer or elk are limited by
25 quota;

26 (5) By rule prescribe procedures requiring the holder of any
27 license, tag, or permit issued under the wildlife laws to keep records
28 and make reports concerning the time, manner, and place of taking
29 wildlife, the quantities taken, and such other information as the
30 commission determines necessary for proper enforcement of the wildlife
31 laws or to obtain information for use in wildlife management;

32 (6) Establish special hunting and angling areas or seasons in which
33 only persons younger than eighteen years of age or older than sixty-
34 five years of age are permitted to hunt or angle;

35 (7) Acquire by purchase, lease, agreement, or gift real property
36 and all appropriate interests therein for wildlife management and
37 wildlife-oriented recreation purposes;

1 (8) Acquire by purchase, lease, agreement, gift, exercise of
2 eminent domain, or otherwise real property and all interests therein
3 and establish, operate, and maintain thereon public hunting areas;

4 (9) Establish and develop wildlife refuge and management areas and
5 prescribe rules governing the use of such areas and the use of wildlife
6 refuge and management areas established and developed under any other
7 law;

8 (10) By rule prescribe fees for licenses, tags, permits, and
9 applications issued or required under the wildlife laws, and user
10 charges for angling, hunting, or other recreational uses of lands owned
11 or managed by the commission, unless such fees or user charges are
12 otherwise prescribed by law. Except for licenses issued under
13 subsection (14) of this section, no fee or user charge prescribed by
14 the commission under this subsection may exceed ten dollars;

15 (11) Enter into contracts with any person or governmental agency
16 for the development and encouragement of wildlife research and
17 management programs and projects;

18 (12) Perform such acts as may be necessary for the establishment
19 and implementation of cooperative wildlife management programs with
20 agencies of the federal government;

21 (13) Offer and pay rewards for the arrest and conviction of any
22 person who has violated any of the wildlife laws. No such reward may
23 exceed one hundred dollars for any one arrest and conviction;

24 (14) By rule prescribe fees for falconry licenses issued under
25 wildlife laws, unless such fees are otherwise prescribed by law. Fees
26 prescribed by the commission under this subsection shall be based on
27 actual or projected costs of administering falconry rules and shall not
28 exceed two hundred fifty dollars; and

29 (15) Establish special hunting seasons and bag limits applicable
30 only to those persons who are permanently unable to be mobile without
31 the assistance of a wheelchair.

32 NEW SECTION. **Sec. 10.** In carrying out duties, functions, and
33 powers regarding the propagation of anadromous fish prescribed in the
34 wildlife laws and the commercial fishing laws, the commission shall
35 give high priority to expenditures for propagation assistance by means
36 of transportation of upstream and downstream migrants in those areas
37 where dams and other such obstacles present a passage problem to
38 juvenile or adult salmonids.

1 NEW SECTION. **Sec. 11.** (1) After investigation of the supply and
2 condition of fish and wildlife, the commission, at appropriate times
3 each year, shall by rule:

4 (a) Prescribe the times, places, and manner in which fish and
5 wildlife may be taken by angling, hunting, or trapping and the amounts
6 of each of those fish and wildlife species that may be taken and
7 possessed;

8 (b) Prescribe such other restrictions or procedures regarding the
9 angling, hunting, trapping, or possessing of fish and wildlife as the
10 commission determines will carry out the wildlife laws.

11 (2) In carrying out subsection (1) of this section, the power of
12 the commission includes, but is not limited to:

13 (a) Prescribing the amount of each fish and wildlife species that
14 may be taken and possessed in terms of sex, size, and other physical
15 characteristics;

16 (b) Prescribing such regular and special time periods and areas
17 closed to the angling, hunting, and trapping of any fish and wildlife
18 species if the commission determines such action is necessary to
19 protect the supply of such wildlife;

20 (c) Prescribing regular and special time periods and areas open to
21 the angling, hunting, and trapping of any wildlife species, and
22 establishing procedures for regulating the number of persons eligible
23 to participate in such angling, hunting, or trapping, if the commission
24 determines such action is necessary to maintain properly the supply of
25 fish and wildlife, alleviate damage to other resources, or to provide
26 a safe and orderly recreational opportunity.

27 (3) In carrying out the provisions of this section, before
28 prescribing the numbers of deer and elk to be taken, the commission
29 shall consider:

30 (a) The supply and condition of deer and elk herds;

31 (b) The availability of forage for deer, elk, and domestic
32 livestock on public and private range and forest lands;

33 (c) The recreational opportunities derived from deer and elk
34 populations; and

35 (d) The effects of deer and elk herds on public and private range
36 and forest lands.

1 NEW SECTION. **Sec. 12.** In carrying out the provisions of the
2 wildlife laws with regard to the management of wildlife that is a
3 threatened species or an endangered species, the commission:

4 (1) Shall conduct investigations of wildlife species native to this
5 state and shall determine whether any such species is a threatened
6 species or an endangered species;

7 (2) By rule, shall establish and publish, and from time to time may
8 revise, a list of wildlife species that are threatened species or
9 endangered species;

10 (3) By rule, shall establish programs for the protection and
11 conservation of wildlife species that are threatened species or
12 endangered species. As used in this section, "conservation" means the
13 use of methods and procedures necessary to bring a species to the point
14 at which the measures are no longer necessary. Such methods and
15 procedures include, but are not limited to, activities associated with
16 scientific resources management such as research, census, law
17 enforcement, habitat acquisition and maintenance, propagation, and
18 transplantation;

19 (4) By rule, shall establish a system of permits for scientific
20 taking of threatened species and endangered species under such terms
21 and conditions as the commission determines will minimize the impact on
22 the species taken; and

23 (5) Shall set priorities for establishing programs under this
24 section after consideration of available funds and the immediacy and
25 seriousness of the threat to any listed species. In proposing and
26 implementing programs for those species that are secure outside this
27 state, the commission shall give preference to cooperative agreements,
28 acquisitions and similar methods.

29 NEW SECTION. **Sec. 13.** (1) The commission, by rule, may add or
30 remove any wildlife species from either list, or change the status of
31 any species on the lists, upon a determination that the species is or
32 is not a threatened species or an endangered species.

33 (2) A determination that a species is a threatened species or an
34 endangered species shall be based on documented and verifiable
35 scientific information about the species' biological status. To list
36 a species as a threatened species or an endangered species, the
37 commission shall determine that the natural reproductive potential of
38 the species is in danger of failure due to limited population numbers,

1 disease, predation, or other natural or the human-made factors
2 affecting its continued existence.

3 (3) The commission shall periodically review the status of all
4 threatened species and endangered species. Each species shall be
5 reviewed at least once every five years to determine whether
6 substantial documented scientific information exists to justify its
7 reclassification or removal from the list according to the criteria in
8 subsection (2) of this section. If a determination is made to
9 reclassify a species or remove it from the list, the commission, within
10 ninety days, shall commence rule making to change the status of the
11 species.

12 (4) Notwithstanding the provisions of this section, the commission
13 may decide not to list a species that otherwise qualifies as a
14 threatened or endangered species within this state if the commission
15 determines that the species is secure outside this state and the
16 species is not of cultural, scientific, or commercial significance to
17 the people of this state.

18 NEW SECTION. **Sec. 14.** In developing protection and conservation
19 programs, the commission shall consult with other states having a
20 common interest in particular threatened species or endangered species
21 and with other affected state agencies.

22 NEW SECTION. **Sec. 15.** Any person may apply to the department of
23 fish and wildlife for preliminary certification of a fish habitat
24 improvement project. The department shall develop rules and procedures
25 for administering its responsibilities. Such rules shall clarify the
26 criteria used to evaluate fish improvement projects. Applications for
27 preliminary certification shall be made in writing on a form provided
28 by the department.

29 NEW SECTION. **Sec. 16.** The department of fish and wildlife shall
30 have access to and control of the moneys held in the nongame wildlife
31 fund, but shall use such moneys only to protect and preserve nongame
32 wildlife and their habitat.

33 NEW SECTION. **Sec. 17.** The director and any deputies of the
34 director and all other peace officers of this state or any political

1 subdivision thereof have jurisdiction of and may enforce any of the
2 provisions of the wildlife laws.

3 NEW SECTION. **Sec. 18.** The department of fisheries and the
4 department of wildlife are hereby abolished and their powers, duties,
5 and functions are hereby transferred to the department of fish and
6 wildlife. All references to the director or department of fisheries or
7 wildlife in the Revised Code of Washington shall be construed to mean
8 the director or department of fish and wildlife.

9 NEW SECTION. **Sec. 19.** All reports, documents, surveys, books,
10 records, files, papers, or written material in the possession of the
11 department of fisheries and the department of wildlife shall be
12 delivered to the custody of the department of fish and wildlife. All
13 cabinets, furniture, office equipment, motor vehicles, and other
14 tangible property employed by the department of fisheries and the
15 department of wildlife shall be made available to the department of
16 fish and wildlife. All funds, credits, or other assets held by the
17 department of fisheries and the department of wildlife shall be
18 assigned to the department of fish and wildlife.

19 Any appropriations made to the department of fisheries and the
20 department of wildlife shall, on the effective date of this section, be
21 transferred and credited to the department of fish and wildlife.

22 Whenever any question arises as to the transfer of any personnel,
23 funds, books, documents, records, papers, files, equipment, or other
24 tangible property used or held in the exercise of the powers and the
25 performance of the duties and functions transferred, the director of
26 financial management shall make a determination as to the proper
27 allocation and certify the same to the state agencies concerned.

28 NEW SECTION. **Sec. 20.** All employees of the department of
29 fisheries and the department of wildlife are transferred to the
30 jurisdiction of the department of fish and wildlife. All employees
31 classified under chapter 41.06 RCW, the state civil service law, are
32 assigned to the department of fish and wildlife to perform their usual
33 duties upon the same terms as formerly, without any loss of rights,
34 subject to any action that may be appropriate thereafter in accordance
35 with the laws and rules governing state civil service.

1 NEW SECTION. **Sec. 21.** All rules and all pending business before
2 the department of fisheries and the department of wildlife shall be
3 continued and acted upon by the department of fish and wildlife. All
4 existing contracts and obligations shall remain in full force and shall
5 be performed by the department of fish and wildlife.

6 NEW SECTION. **Sec. 22.** The transfer of the powers, duties,
7 functions, and personnel of the department of fisheries and the
8 department of wildlife shall not affect the validity of any act
9 performed prior to the effective date of this section.

10 NEW SECTION. **Sec. 23.** If apportionments of budgeted funds are
11 required because of the transfers directed by sections 19 through 22 of
12 this act, the director of financial management shall certify the
13 apportionments to the agencies affected, the state auditor, and the
14 state treasurer. Each of these shall make the appropriate transfer and
15 adjustments in funds and appropriation accounts and equipment records
16 in accordance with the certification.

17 NEW SECTION. **Sec. 24.** Nothing contained in sections 18 through 23
18 of this act may be construed to alter any existing collective
19 bargaining unit or the provisions of any existing collective bargaining
20 agreement until the agreement has expired or until the bargaining unit
21 has been modified by action of the personnel board as provided by law.

22 NEW SECTION. **Sec. 25.** The following acts or parts of acts are
23 each repealed:

24 (1) RCW 77.04.010 and 1990 c 84 s 1, 1980 c 78 s 2, & 1955 c 36 s
25 77.04.010;

26 (2) RCW 77.04.020 and 1987 c 506 s 4, 1980 c 78 s 3, & 1955 c 36 s
27 77.04.020;

28 (3) RCW 77.04.030 and 1987 c 506 s 5, 1981 c 338 s 11, 1980 c 78 s
29 4, & 1955 c 36 s 77.04.030;

30 (4) RCW 77.04.040 and 1987 c 506 s 6, 1980 c 78 s 5, & 1955 c 36 s
31 77.04.040;

32 (5) RCW 77.04.055 and 1990 c 84 s 2 & 1987 c 506 s 7;

33 (6) RCW 77.04.060 and 1987 c 506 s 8, 1987 c 114 s 1, 1984 c 287 s
34 110, 1980 c 78 s 6, 1977 c 75 s 89, 1975-'76 2nd ex.s. c 34 s 175, 1961
35 c 307 s 9, 1955 c 352 s 1, & 1955 c 36 s 77.04.060;

1 (7) RCW 77.04.080 and 1987 c 506 s 9, 1980 c 78 s 8, & 1955 c 36 s
2 77.04.080; and

3 (8) RCW 77.04.090 and 1984 c 240 s 1, 1980 c 78 s 16, & 1955 c 36
4 s 77.12.050.

5 NEW SECTION. **Sec. 26.** Sections 1 through 18 of this act are each
6 added to chapter 77.04 RCW.

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