
SUBSTITUTE SENATE BILL 5948

State of Washington

54th Legislature

1995 Regular Session

By Senate Committee on Natural Resources (originally sponsored by Senators Drew, Gaspard, Oke, Owen, Haugen, McDonald, Rasmussen, Sutherland and Bauer)

Read first time 03/01/95.

1 AN ACT Relating to the authority of the state commission on fish
2 and wildlife; amending RCW 77.04.030, 77.04.040, 77.04.055, 77.04.080,
3 75.30.060, 75.50.010, 75.50.020, 75.50.030, 75.50.040, 75.50.050,
4 75.50.070, 75.50.110, 75.50.130, 75.52.050, 75.08.014, and 77.04.060;
5 creating new sections; and providing an effective date.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that the authority of
8 the state commission on fish and wildlife and the authority of the
9 director of the department of fish and wildlife need clarification for
10 the purposes of providing a unifying policy and a cooperative working
11 relationship between the decision-making entities of the department.
12 The legislature intends to improve the management of the fish and
13 wildlife resources of the state, to provide improved access for the
14 citizens of the state to the policymaking process, and to increase the
15 responsiveness of the agency to the needs of both the resource and the
16 people of the state.

17 The legislature finds that all fish, shellfish, and wildlife
18 species should be managed under a single comprehensive set of goals,
19 policies, and objectives, and that the fish and wildlife commission

1 should perform that function. The fish and wildlife commission shall
2 have a greater role in the selection of the director of the agency by
3 interviewing candidates and providing the governor with a list of
4 candidates from which the governor shall select the director.

5 The legislature finds that the director should have the final
6 authority to approve department agreements, but that the director
7 should work cooperatively with the commission to inform them of the
8 issues at hand, and to seek their approval. The director shall prepare
9 the department budget and shall administer the department budget, but
10 the director shall submit the proposed budget to the fish and wildlife
11 commission within sufficient time for the commission to hold public
12 hearings and to recommend changes to the director. The director shall
13 have rule-making authority for the day-to-day management of fisheries
14 for food fish and shellfish within the overall policies set by the
15 commission.

16 **Sec. 2.** RCW 77.04.030 and 1994 c 264 s 52 are each amended to read
17 as follows:

18 The fish and wildlife commission consists of nine registered voters
19 of the state. In January of each odd-numbered year, the governor shall
20 appoint with the advice and consent of the senate two registered voters
21 to the commission to serve for terms of six years from that January or
22 until their successors are appointed and qualified. If a vacancy
23 occurs on the commission prior to the expiration of a term, the
24 governor shall appoint a registered voter within sixty days to complete
25 the term. Three members shall be residents of that portion of the
26 state lying east of the summit of the Cascade mountains, and three
27 shall be residents of that portion of the state lying west of the
28 summit of the Cascade mountains. Three additional members shall be
29 appointed at-large effective July 1, 1993; one of whom shall serve a
30 one and one-half year term to end December 31, 1994; one of whom shall
31 serve a three and one-half year term to end December 31, 1996; and one
32 of whom shall serve a five and one-half year term to end December 31,
33 1998. Thereafter all members are to serve a six-year term. No member
34 may serve more than two terms. No two members may be residents of the
35 same county. The legal office of the commission is at the
36 administrative office of the department in Olympia.

1 **Sec. 3.** RCW 77.04.040 and 1993 sp.s. c 2 s 61 are each amended to
2 read as follows:

3 Persons eligible for appointment as members of the commission shall
4 have general knowledge of the habits and distribution of ((game)) fish
5 and wildlife and shall not hold another state, county, or municipal
6 elective or appointive office. In making these appointments, the
7 governor shall seek to maintain a balance reflecting all aspects of
8 ((game)) fish and wildlife, including having on the commission at any
9 given time at least one representative from each of the following
10 categories of organized groups: Recreational fishers, commercial
11 fishers, environmentalists, hunters, and private landowners. Persons
12 eligible for appointment as fish and wildlife commissioners shall not
13 have a monetary interest in any private business that is involved with
14 consumptive or nonconsumptive use of ((game)) fish or wildlife.

15 **Sec. 4.** RCW 77.04.055 and 1993 sp.s. c 2 s 62 are each amended to
16 read as follows:

17 (1) In establishing policies to preserve, protect, and perpetuate
18 wildlife, ((game)) fish, and wildlife and ((game)) fish habitat, the
19 commission shall meet annually with the governor to:

20 (a) Review and prescribe basic goals and objectives related to
21 those policies; and

22 (b) Review the performance of the department in implementing
23 ((game)) fish and wildlife policies.

24 The commission shall maximize ((game-fish)) fishing, hunting, and
25 outdoor recreational opportunities compatible with healthy and diverse
26 fish and wildlife populations.

27 (2) The commission shall establish hunting, trapping, and fishing
28 seasons and prescribe the time, place, manner, and methods that may be
29 used to harvest or enjoy game fish and wildlife.

30 (3) The commission shall establish policies for the allocation of
31 food fish and shellfish resources to recreational fishers and to
32 commercial fishers.

33 (4) The commission shall develop the overall goals, policies, and
34 objectives of the department of fish and wildlife and shall conduct
35 public hearings on the goals, policies, and objectives.

36 (5) The commission shall consult with and advise the director on
37 department agreements involving tribal, interstate, international, and
38 other issues.

1 (6) The commission shall make recommendations to the director for
2 the department's budget proposals after conducting public hearings on
3 the budget proposals.

4 (7) The commission shall participate in the legislative process to
5 assure that the approved agency budget reflects the goals, policies,
6 and objectives of the commission.

7 (8) The commission shall select its own staff, which shall serve at
8 the pleasure of the commission.

9 (9) The commission shall ensure that adequate opportunities for
10 public input are provided prior to the establishment of fishing seasons
11 and regulations for the harvesting of food fish and shellfish; and that
12 existing public input forums used by the director for food fish and
13 shellfish be continued. Such forums shall include, but not be limited
14 to, the "North of Falcon" meetings and the director's sport fishery
15 advisory board.

16 **Sec. 5.** RCW 77.04.080 and 1993 sp.s. c 2 s 64 are each amended to
17 read as follows:

18 Persons eligible for appointment by the governor as director shall
19 have practical knowledge of the habits and distribution of fish and
20 wildlife. ~~((The governor shall seek recommendations from the~~
21 ~~commission on the qualifications, skills, and experience necessary to~~
22 ~~discharge the duties of the position. When considering and selecting~~
23 ~~the director, the governor shall consult with and be advised by the~~
24 ~~commission.))~~ The governor shall request a list of at least three
25 qualified applicants for the position of director from the fish and
26 wildlife commission and shall select one of the qualified applicants
27 from the commission recommendations as the director. The commission
28 shall select an interim director to act during the period when the
29 governor is making the decision. The director shall receive the salary
30 fixed by the governor under RCW 43.03.040.

31 The director is the ex officio secretary of the commission and
32 shall attend its meetings and keep a record of its business.

33 The director may appoint and employ necessary departmental
34 personnel. The director may delegate to department personnel the
35 duties and powers necessary for efficient operation and administration
36 of the department. ~~((The department shall provide staff for the~~
37 ~~commission.))~~

1 **Sec. 6.** RCW 75.30.060 and 1983 1st ex.s. c 46 s 139 are each
2 amended to read as follows:

3 A person aggrieved by a decision of the department under this
4 chapter may request administrative review under the informal procedure
5 established by this section.

6 In an informal hearing before a review board, the rules of evidence
7 do not apply. A record of the proceeding shall be kept as provided by
8 chapter 34.05 RCW. After hearing the case the review board shall
9 notify in writing the director and the commission and the initiating
10 party whether the review board agrees or disagrees with the
11 department's decision and the reasons for the board's findings. Upon
12 receipt of the board's findings the director or the commission may
13 order such relief as the director or the commission deems appropriate
14 under the circumstances.

15 Nothing in this section: (1) Impairs an aggrieved person's right
16 to proceed under chapter 34.05 RCW; or (2) imposes a liability on
17 members of a review board for their actions under this section.

18 **Sec. 7.** RCW 75.50.010 and 1993 sp.s. c 2 s 45 are each amended to
19 read as follows:

20 Currently, many of the salmon stocks of Washington state are
21 critically reduced from their sustainable level. The best interests of
22 all fishing groups and the citizens as a whole are served by a stable
23 and productive salmon resource. Immediate action is needed to reverse
24 the severe decline of the resource and to insure its very survival.
25 The legislature finds a state of emergency exists and that immediate
26 action is required to restore its fishery.

27 Disagreement and strife have dominated the salmon fisheries for
28 many years. Conflicts among the various fishing interests have only
29 served to erode the resource. It is time for the state of Washington
30 to make a major commitment to increasing productivity of the resource
31 and to move forward with an effective rehabilitation and enhancement
32 program. The (~~department~~) commission is directed to dedicate its
33 efforts and the efforts of the department to seek resolution to the
34 many conflicts that involve the resource.

35 Success of the enhancement program can only occur if projects
36 efficiently produce salmon or restore habitat. The expectation of the
37 program is to optimize the efficient use of funding on projects that
38 will increase artificially and naturally produced salmon, restore and

1 improve habitat, or identify ways to increase the survival of salmon.
2 The full utilization of state resources and cooperative efforts with
3 interested groups are essential to the success of the program.

4 **Sec. 8.** RCW 75.50.020 and 1985 c 458 s 2 are each amended to read
5 as follows:

6 (1) The ((~~director~~)) commission shall develop long-term regional
7 policy statements regarding the salmon fishery resources ((~~before~~
8 ~~December 1, 1985~~)). The ((~~director~~)) commission shall consider the
9 following in formulating and updating regional policy statements:

- 10 (a) Existing resource needs;
11 (b) Potential for creation of new resources;
12 (c) Successful existing programs, both within and outside the
13 state;
14 (d) Balanced utilization of natural and hatchery production;
15 (e) Desires of the fishing interest;
16 (f) Need for additional data or research;
17 (g) Federal court orders; and
18 (h) Salmon advisory council recommendations.

19 (2) The ((~~director~~)) commission shall review and update each policy
20 statement at least once each year.

21 **Sec. 9.** RCW 75.50.030 and 1985 c 458 s 3 are each amended to read
22 as follows:

23 (1) The ((~~director~~)) commission shall develop a detailed salmon
24 enhancement plan with proposed enhancement projects. The plan and the
25 regional policy statements shall be submitted to the secretary of the
26 senate and chief clerk of the house of representatives for legislative
27 distribution by June 30, 1986. The enhancement plan and regional
28 policy statements shall be provided by June 30, 1986, to the natural
29 resources committees of the house of representatives and the senate.
30 The ((~~director~~)) commission shall provide a maximum opportunity for the
31 public to participate in the development of the salmon enhancement
32 plan. To insure full participation by all interested parties, the
33 ((~~director~~)) commission shall solicit and consider enhancement project
34 proposals from Indian tribes, sports fishermen, commercial fishermen,
35 private aquaculturists, and other interested groups or individuals for
36 potential inclusion in the salmon enhancement plan. Joint or
37 cooperative enhancement projects shall be considered for funding.

1 (2) The following criteria shall be used by the ((director))
2 commission in formulating the project proposals:

3 (a) Compatibility with the long-term policy statement;

4 (b) Benefit/cost analysis;

5 (c) Needs of all fishing interests;

6 (d) Compatibility with regional plans, including harvest management
7 plans;

8 (e) Likely increase in resource productivity;

9 (f) Direct applicability of any research;

10 (g) Salmon advisory council recommendations;

11 (h) Compatibility with federal court orders;

12 (i) Coordination with the salmon and steelhead advisory commission
13 program;

14 (j) Economic impact to the state;

15 (k) Technical feasibility; and

16 (l) Preservation of native salmon runs.

17 (3) The ((director)) commission shall not approve projects that
18 serve as replacement funding for projects that exist prior to May 21,
19 1985, unless no other sources of funds are available.

20 (4) The ((director)) commission shall prioritize various projects
21 and establish a recommended implementation time schedule.

22 **Sec. 10.** RCW 75.50.040 and 1985 c 458 s 4 are each amended to read
23 as follows:

24 Upon approval by the legislature of funds for its implementation,
25 the ((director)) commission shall monitor the progress of projects
26 detailed in the salmon enhancement plan.

27 The ((director)) commission shall be responsible for establishing
28 criteria which shall be used to measure the success of each project in
29 the salmon enhancement plan.

30 **Sec. 11.** RCW 75.50.050 and 1987 c 505 s 72 are each amended to
31 read as follows:

32 The ((director)) commission shall report to the legislature on or
33 before October 30th of each year ((through 1991)) on the progress and
34 performance of each project. The report shall contain an analysis of
35 the successes and failures of the program to enable optimum development
36 of the program. The report shall include estimates of funding levels
37 necessary to operate the projects in future years.

1 The ((~~director~~)) commission shall submit the reports and any
2 additional recommendations to the chairs of the committees on ways and
3 means and the committees on natural resources of the senate and house
4 of representatives.

5 **Sec. 12.** RCW 75.50.070 and 1993 sp.s. c 2 s 46 are each amended to
6 read as follows:

7 The legislature finds that it is in the best interest of the salmon
8 resource of the state to encourage the development of regional
9 fisheries enhancement groups. The accomplishments of one existing
10 group, the ((~~Grays Harbor~~)) Chehalis river basin fisheries enhancement
11 task force, have been widely recognized as being exemplary. The
12 legislature recognizes the potential benefits to the state that would
13 occur if each region of the state had a similar group of dedicated
14 citizens working to enhance the salmon resource.

15 The legislature authorizes the formation of regional fisheries
16 enhancement groups. These groups shall be eligible for state financial
17 support and shall be actively supported by the commission and the
18 department. The regional groups shall be operated on a strictly
19 nonprofit basis, and shall seek to maximize the efforts of volunteer
20 and private donations to improve the salmon resource for all citizens
21 of the state.

22 **Sec. 13.** RCW 75.50.110 and 1990 c 58 s 4 are each amended to read
23 as follows:

24 A regional fisheries enhancement group advisory board is
25 established to make recommendations to the ((~~director~~)) commission.
26 The advisory board shall make recommendations regarding regional
27 enhancement group rearing project proposals and funding of those
28 proposals. The members shall be appointed by the ((~~director~~))
29 commission and consist of two commercial fishing representatives, two
30 recreational fishing representatives, and three at-large positions.
31 The advisory board membership shall include two members serving ex
32 officio to be nominated, one through the Northwest Indian fisheries
33 commission, and one through the Columbia river intertribal fish
34 commission.

35 The department may use account funds to provide agency assistance
36 to the groups. The level of account funds used by the department shall
37 be determined by the ((~~director~~)) commission after review and

1 recommendation by the regional fisheries enhancement group advisory
2 board and shall not exceed twenty percent of annual contributions to
3 the account.

4 **Sec. 14.** RCW 75.50.130 and 1993 sp.s. c 2 s 48 are each amended to
5 read as follows:

6 The ((director)) commission shall prepare a salmon recovery plan
7 for the Skagit river. The plan shall include strategies for employing
8 displaced timber workers to conduct salmon restoration and other tasks
9 identified in the plan. The plan shall incorporate the best available
10 technology in order to achieve maximum restoration of depressed salmon
11 stocks. The plan must encourage the restoration of natural spawning
12 areas and natural rearing of salmon but must not preclude the
13 development of an active hatchery program.

14 **Sec. 15.** RCW 75.52.050 and 1984 c 72 s 5 are each amended to read
15 as follows:

16 The ((director of each department)) commission shall establish by
17 rule:

18 (1) The procedure for entering a cooperative agreement and the
19 application forms for a permit to release fish or wildlife required by
20 RCW 75.08.295 or 77.16.150. The procedure shall indicate the
21 information required from the volunteer group as well as the process of
22 review by the department. The process of review shall include the
23 means to coordinate with other agencies and Indian tribes when
24 appropriate and to coordinate the review of any necessary hydraulic
25 permit approval applications.

26 (2) The procedure for providing within forty-five days of receipt
27 of a proposal a written response to the volunteer group indicating the
28 date by which an acceptance or rejection of the proposal can be
29 expected, the reason why the date was selected, and a written summary
30 of the process of review. The response should also include any
31 suggested modifications to the proposal which would increase its
32 likelihood of approval and the date by which such modified proposal
33 could be expected to be accepted. If the proposal is rejected, the
34 department must provide in writing the reasons for rejection. The
35 volunteer group may request the director or the director's designee to
36 review information provided in the response.

1 (3) The priority of the uses to which eggs, seed, juveniles, or
2 brood stock are put. Use by cooperative projects shall be second in
3 priority only to the needs of programs of the department or of other
4 public agencies within the territorial boundaries of the state. Sales
5 of eggs, seed, juveniles, or brood stock have a lower priority than use
6 for cooperative projects.

7 (4) The procedure for notice in writing to a volunteer group of
8 cause to revoke the agreement for the project and the procedure for
9 revocation. Revocation shall be documented in writing to the volunteer
10 group. Cause for revocation may include: (a) The unavailability of
11 adequate biological or financial resources; (b) the development of
12 unacceptable biological or resource management conflicts; or (c) a
13 violation of agreement provisions. Notice of cause to revoke for a
14 violation of agreement provisions may specify a reasonable period of
15 time within which the volunteer group must comply with any violated
16 provisions of the agreement.

17 (5) An appropriate method of distributing among volunteer groups
18 fish, bird, or animal food or other supplies available for the program.

19 **Sec. 16.** RCW 75.08.014 and 1993 sp.s. c 2 s 21 are each amended to
20 read as follows:

21 The director shall supervise the administration and operation of
22 the department and perform the duties prescribed by law. The director
23 may appoint and employ necessary personnel. The director may delegate,
24 in writing, to department personnel the duties and powers necessary for
25 efficient operation and administration of the department.

26 Only persons having general knowledge of the fisheries and wildlife
27 resources and of the commercial and recreational fishing industry in
28 this state are eligible for appointment as director. The director
29 shall not have a financial interest in the fishing industry or a
30 directly related industry.

31 The director shall administer the budget of the department to
32 assure that the budget conforms to the goals, policies, and objectives
33 set by the fish and wildlife commission. The director shall administer
34 the day to day management of the department in such a manner that all
35 programs are in compliance with the goals, policies, and objectives of
36 the fish and wildlife commission. The director has the authority to
37 negotiate and approve all agreements involving the department, but the

1 director shall consult with and consider the advice of the commission
2 on all department agreements.

3 **Sec. 17.** RCW 77.04.060 and 1993 sp.s. c 2 s 63 are each amended to
4 read as follows:

5 The commission shall hold at least one regular meeting during the
6 first two months of each calendar quarter, and special meetings when
7 called by the chair and by five members. Five members constitute a
8 quorum for the transaction of business.

9 The commission at a meeting in each odd-numbered year shall elect
10 one of its members as chairman and another member as vice chairman,
11 each of whom shall serve for a term of two years or until a successor
12 is elected and qualified.

13 The commission shall:

14 (1) Schedule meetings in each region on a rotating basis so that
15 meetings are held in every region on a regular continuing basis;

16 (2) Schedule day and evening meetings in every region;

17 (3) Accept public testimony at every meeting;

18 (4) Use regional office staff for meetings and presentations; and

19 (5) Limit department staff attending meetings to reduce expenses.

20 Members of the commission shall be compensated in accordance with
21 RCW 43.03.250, however, commission members and staff shall share
22 transportation and lodging whenever possible. In addition, members are
23 allowed their travel expenses incurred while absent from their usual
24 places of residence in accordance with RCW 43.03.050 and 43.03.060.

25 NEW SECTION. **Sec. 18.** By December 1, 1995, the fish and wildlife
26 commission shall submit to the committees on natural resources of the
27 house of representatives and the senate a report identifying other
28 statutory changes necessary for implementation of the commission's
29 recommendations regarding its responsibilities in the department of
30 fish and wildlife.

31 NEW SECTION. **Sec. 19.** Sections 3 through 17 of this act shall
32 take effect July 1, 1996.

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