
SUBSTITUTE HOUSE BILL 1836

State of Washington 52nd Legislature 1991 Regular Session

By House Committee on Natural Resources & Parks (originally sponsored by Representatives Belcher, Beck, Scott, Jacobsen, Phillips, Ferguson, Rasmussen, Fraser, Brumsickle, Sprenkle, Rust, Spanel, Leonard, Holland, Dorn, Forner, Franklin, Roland, R. Johnson, R. Fisher, H. Myers, R. King, Wang, Winsley, Nelson, Brough and Anderson).

Read first time February 27, 1991.

1 AN ACT Relating to comprehensive river management; adding a new
2 section to chapter 43.21A RCW; adding a new chapter to Title 43 RCW;
3 repealing RCW 79.72.010, 79.72.020, 79.72.030, 79.72.040, 79.72.050,
4 79.72.060, 79.72.070, 79.72.080, 79.72.090, 79.72.100, and 79.72.900;
5 and making an appropriation.

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

7 NEW SECTION. **Sec. 1.** INTENT. The legislature finds that (1) the
8 rivers of the state are a great economic, cultural, and recreational
9 resource; (2) these rivers are facing increasing pressure and conflicts
10 from growth and a multitude of uses and activities both within the
11 river and its drainage; and (3) the resolution of these pressures and
12 conflicts should be based upon a collaborative planning process rather
13 than adding to the regulatory burden of landowners. Therefore, it is
14 the intent of the legislature to establish a program that will
15 encourage a collaborative process bringing together users, landowners,

1 local governments, and state government to develop a long-range plan
2 for the management and preservation of the state's rivers and the
3 various uses made of those rivers. Furthermore, it is the intent of
4 the legislature that this program should provide to the greatest extent
5 possible for the development of plans and management of river systems
6 at the local level.

7 NEW SECTION. **Sec. 2.** DEFINITIONS. Unless the context clearly
8 requires otherwise, the definitions in this section apply throughout
9 this chapter.

10 (1) "Commission" means the state parks and recreation commission
11 created under RCW 43.51.020.

12 (2) "Director" means the director of the commission appointed under
13 RCW 43.51.060.

14 (3) "Local governments" means municipal corporations, quasi-
15 municipal corporations, counties, and tribes.

16 (4) "Model rivers" means rivers or river areas designated under
17 section 8 of this act.

18 (5) "Protected rivers" means rivers or river areas designated under
19 section 5 or 6 of this act.

20 (6) "River area" means a river and land surrounding the river as
21 defined by a protected or model river management plan developed under
22 section 5, 6, or 8 of this act.

23 NEW SECTION. **Sec. 3.** MODEL RIVERS PROGRAM. (1) There is created
24 within the parks and recreation commission the model rivers program.
25 The purpose of the program is to:

26 (a) Promote river management programs that enhance a river's
27 natural or inherent qualities;

1 (b) Enhance the economic, recreational, cultural, and natural uses
2 that rivers provide to the citizens of Washington state;

3 (c) Promote and manage programs that balance the various uses of
4 rivers;

5 (d) Protect the best interests of private landowners while
6 maintaining the health of the river;

7 (e) Encourage citizen and government stewardship of rivers to care
8 for and monitor river resources;

9 (f) Encourage the use and coordination of existing statutes and
10 agency programs rather than create new programs or rules;

11 (g) Assist local governments to preserve and enhance their river
12 areas; and

13 (h) Rehabilitate rivers that do not meet water quality standards.

14 (2) The commission shall:

15 (a) Monitor the management of protected rivers, model rivers,
16 degraded rivers, and rivers that receive technical assistance;

17 (b) Provide assistance in development of management plans for
18 protected rivers and model rivers;

19 (c) Notify and work with local interests, local governments, and
20 appropriate state agencies to determine the appropriate management
21 plans for protected rivers; and

22 (d) Report to the legislature by January 1st of odd-numbered years
23 on the commission's activities under this chapter and the status of
24 rivers in the state.

25 NEW SECTION. **Sec. 4.** PROTECTED RIVERS. (1) The commission shall
26 prepare a list of rivers eligible for designation as protected rivers.
27 Rivers eligible for such designation shall be limited to:

28 (a) Rivers designated as off-limits in the state hydroelectric
29 power resource protection plan; and

1 (b) The eighteen candidate rivers listed in the 1988 state parks
2 scenic rivers assessment.

3 (2) A river may be included on the list under subsection (1) of
4 this section only if the commission finds that the following conditions
5 exist:

6 (a) The river or the portion of the river to be designated is free
7 flowing;

8 (b) The river has exceptional natural, scenic, historic,
9 ecological, cultural, or recreational features;

10 (c) The river is without artificial diversions that hinder
11 recreational use;

12 (d) The river is relatively unmodified by riprapping and other
13 stream bank intrusions;

14 (e) There is water of sufficient quality and quantity to warrant
15 protected river designation;

16 (f) The river is in a relatively natural condition with adequate
17 open space; and

18 (g) The river has publicly owned land along its length.

19 (3) When a river is listed under subsection (1) of this section,
20 the director or the director's designee shall:

21 (a) Notify the appropriate local governments of the listing;

22 (b) Explain the significance of the eligibility for designation;
23 and

24 (c) Explain how to develop a protected river management plan under
25 sections 5 and 6 of this act.

26 NEW SECTION. **Sec. 5.** PROTECTED RIVERS--LOCAL MANAGEMENT PLAN.

27 (1) A local government or a group of local governments may elect to
28 develop a local management plan for a river or a portion of a river
29 that is (a) within its jurisdiction and (b) listed under section 4(1)

1 of this act. The local government or group of local governments shall
2 appoint a river council under section 9 of this act to assist in the
3 development, implementation, and review of the management plan.
4 Management plans developed under this section shall satisfy the
5 requirements of section 7 of this act.

6 (2) Upon completion, the local management plan shall be submitted
7 to the commission for adoption or rejection. No plan may be adopted
8 unless the commission finds that the plan is consistent with the
9 requirements of section 7 of this act. If rejected, the commission
10 shall notify the local government or group of local governments of any
11 action required in order to gain approval. Upon approval of the plan,
12 the commission shall request that the legislature designate the river
13 as a locally managed protected river.

14 NEW SECTION. **Sec. 6.** PROTECTED RIVERS--STATE MANAGEMENT PLAN.

15 (1) The commission may develop and adopt a state management plan for
16 any river or a portion of a river listed under section 4(1) of this act
17 for which (a) no local management plan has been developed under section
18 5 of this act or (b) a local management plan developed under section 5
19 of this act has been disapproved. If the commission elects to develop
20 a management plan, the commission shall appoint a river council under
21 section 9 of this act to assist in the development, implementation, and
22 review of the management plan. Management plans developed under this
23 section shall satisfy the requirements of section 7 of this act.

24 (2) Upon completion of the plan by the commission, the commission
25 shall request that the legislature designate the river as a state-
26 managed protected river.

27 NEW SECTION. **Sec. 7.** PROTECTED RIVER MANAGEMENT PLANS. (1) A
28 protected river management plan shall consist of an initial assessment

1 and, based upon the results of the assessment, the development of
2 management goals and objectives. The initial assessment shall consist
3 of:

4 (a) An inventory of the river's natural resources including but not
5 limited to, fisheries, wildlife, forestry, recreation, historical, and
6 cultural resources; and

7 (b) An evaluation of existing and potential land uses, existing
8 plans that affect activity along the river, public use, and methods for
9 protection of private property rights.

10 (2) The commission shall establish the criteria and components of
11 protected river management plans developed under sections 5 and 6 of
12 this act. These criteria shall include, but not be limited to:

13 (a) Maintenance of stream flows that protect the outstanding
14 recreational, natural, and cultural values of the river;

15 (b) Protection of water quality;

16 (c) Management of the river by selective use of riprapping and
17 other stream bank protection to protect existing structures;

18 (d) Maintenance of a relatively natural setting and adequate open
19 space on public lands within the area subject to the management plan;

20 (e) Prohibiting dams or impoundments that would degrade the river's
21 natural qualities;

22 (f) Protecting the interests of landowners while maintaining the
23 health of the river; and

24 (g) Identification of the river area that is subject to the
25 management plan.

26 NEW SECTION. **Sec. 8.** MODEL RIVER DESIGNATION. (1) The goal of
27 the model river designation is to maintain or improve river quality on
28 multiple use rivers by evaluating and assessing existing and potential
29 uses along the river area, and developing a model river management plan

1 for the river. Uses of a model river may include hydropower,
2 agriculture, fishing, wildlife, recreation, culture, forestry, and
3 public safety.

4 (2) A local government or a group of local governments with
5 jurisdiction in the vicinity of the river may petition the commission
6 to have a river designated as a model river. Such a petition may
7 include a request for matching funds to finance the development of a
8 model river management plan under this section. A petitioner,
9 submitting a petition under this section, shall:

10 (a) Demonstrate a firm interest in developing a management plan;

11 (b) Agree to establish goals and objectives to achieve multiple use
12 protection of the river;

13 (c) Agree to appoint a river council that is broadly representative
14 as required under section 9 of this act; and

15 (d) Agree, if funding is being requested, to provide or secure a
16 minimum of fifty percent matching funds for the development of a
17 management plan.

18 (3) The commission shall review and prioritize petitions submitted
19 under subsection (2) of this section on the basis of the following
20 criteria:

21 (a) The extent to which the river possesses natural, cultural,
22 recreational, or economic value of regional or state-wide significance;

23 (b) The extent to which the river is in need of a management plan
24 to balance competing demands on the river;

25 (c) The extent to which there is a threat to the river environment
26 by overuse or uncontrolled growth;

27 (d) The extent to which the petitioners have considered and are
28 likely to achieve their goals; and

29 (e) The availability of funding.

1 The commission may award matching funds to the petitioner for the
2 development of a model river management plan based upon the priorities
3 established under this subsection. Funds may be awarded only if the
4 petitioner guarantees to provide a minimum of fifty percent matching
5 funds.

6 (4) The petitioner shall appoint a river council under section 9 of
7 this act to assist in the development, implementation, and review of
8 the management plan. The commission shall provide technical assistance
9 to the extent possible.

10 (5) The river council appointed under subsection (4) of this
11 section shall establish:

12 (a) The river area subject to the management plan; and

13 (b) The criteria and components of the river management plan
14 consistent with the purposes of this section.

15 (6) A model river management plan shall consist of an initial
16 assessment and, based upon the results of the assessment, management
17 goals, and objectives. The initial assessment shall consist of:

18 (a) An inventory of the river's natural resources including but not
19 limited to, fisheries, wildlife, forestry, recreation, historical, and
20 cultural resources; and

21 (b) An evaluation of existing and potential land uses, existing
22 plans that affect activity along the river, public use, and methods for
23 protection of private property rights.

24 (7) Upon completion, the model river management plan shall be
25 submitted to the commission for adoption or rejection.

26 The commission may reject a plan only if it finds that the plan is
27 not consistent with the purposes of this chapter by maintaining or
28 improving the quality of the river while providing for coordinated,
29 multiple use of the river area.

1 If rejected, the commission shall notify the petitioner of any
2 action required in order to gain approval. Upon adoption of the
3 management plan, the commission shall designate the river as a model
4 river.

5 NEW SECTION. **Sec. 9.** RIVER COUNCILS. (1) There may be only one
6 river council appointed in association with any single management plan
7 developed under section 5, 6, or 8 of this act.

8 (2) A river council shall be broadly representative of all
9 interests associated with the river including, but not limited to:
10 Landowners, recreational and environmental interest groups, business,
11 local governments, and state agencies. The duties of a river council
12 shall include assisting in the development, implementation, and review
13 of the management plan.

14 NEW SECTION. **Sec. 10.** TECHNICAL COMMITTEES. The commission may
15 appoint technical committees to assist in implementation of this
16 chapter. When establishing technical committees the commission shall
17 ensure that appropriate public and private interests are represented.
18 The technical committees shall meet at the times and places determined
19 by the director.

20 NEW SECTION. **Sec. 11.** RIVERS ASSISTANCE COMPONENT. Local
21 governments with a single critical issue or multiple issues along the
22 river that do not require model river management plans may petition the
23 commission for assistance. If, after a preliminary evaluation of the
24 issue or issues, the commission determines that a management plan is
25 not required, then the commission may provide assistance by referring
26 the request to the state agency capable of providing assistance or
27 requesting participants in the rivers assistance team to make an on-

1 site evaluation and provide the local government with a recommendation
2 for resolving the issue or issues.

3 NEW SECTION. **Sec. 12.** RIVERS ASSISTANCE TEAM. (1) Upon request
4 for technical assistance from local persons or interests or a local
5 government the commission may identify volunteer experts from the
6 public and private sector select who are willing to serve on a rivers
7 assistance team.

8 (2) The rivers assistance team shall provide technical assistance,
9 consultations, and on-site evaluations. The rivers assistance team may
10 issue a report of findings if deemed appropriate by members of the
11 team.

12 (3) Participants in on-site evaluations shall receive compensation
13 in accordance with RCW 43.03.220 and be reimbursed for travel expenses
14 as provided for in RCW 43.03.050 and 43.03.060.

15 NEW SECTION. **Sec. 13.** A new section is added to chapter 43.21A
16 RCW to read as follows:

17 **DEGRADED RIVERS.** (1) The department shall submit a biennial report
18 to the parks and recreation commission on rivers in the state monitored
19 for water quality standards by the department under chapter 90.48 RCW.
20 The report shall include: Identification of degraded rivers;
21 identification of rivers in danger of becoming degraded;
22 recommendations to the commission on preventing degradation of rivers;
23 and plans or programs implemented to improve water quality.

24 (2) For the purposes of this section, "degraded rivers" are rivers
25 that do not meet state surface water quality standards and are
26 identified by the department as water quality limited.

1 NEW SECTION. **Sec. 14.** WATER RIGHTS--EMINENT DOMAIN. This chapter
2 shall not (1) affect or impair any water right or permit existing on
3 the effective date of this section; (2) be construed to impose any
4 special limitations on the issuance and development of water rights
5 relating to a critical public water supply; or (3) be construed to
6 grant additional regulatory authority to local or state agencies. The
7 power of eminent domain may not be used in carrying out any provision
8 of this chapter. The property rights of landowners shall be protected
9 from arbitrary and discriminatory action.

10 NEW SECTION. **Sec. 15.** STATE TRUST LANDS. This chapter shall not
11 prohibit the department of natural resources from exercising its full
12 responsibilities and obligations for the management of state trust
13 lands.

14 NEW SECTION. **Sec. 16.** REDESIGNATION OF SCENIC RIVERS. On the
15 effective date of this section, all rivers or river segments designated
16 in the scenic rivers program, chapter 79.72 RCW, shall be designated as
17 protected rivers under section 8 of this act.

18 NEW SECTION. **Sec. 17.** CAPTIONS NOT LAW. Section headings as used
19 in this act do not constitute any part of the law.

20 NEW SECTION. **Sec. 18.** SHORT TITLE. This chapter shall be known
21 and cited as the model rivers act.

22 NEW SECTION. **Sec. 19.** The following acts or parts of acts are
23 each repealed:

24 (1) RCW 79.72.010 and 1977 ex.s. c 161 s 1;

- 1 (2) RCW 79.72.020 and 1988 c 36 s 57, 1987 c 57 s 1, 1984 c 7 s
2 371, & 1977 ex.s. c 161 s 2;
- 3 (3) RCW 79.72.030 and 1977 ex.s. c 161 s 3;
- 4 (4) RCW 79.72.040 and 1989 c 175 s 169 & 1977 ex.s. c 161 s 4;
- 5 (5) RCW 79.72.050 and 1977 ex.s. c 161 s 5;
- 6 (6) RCW 79.72.060 and 1977 ex.s. c 161 s 6;
- 7 (7) RCW 79.72.070 and 1988 c 36 s 58 & 1977 ex.s. c 161 s 7;
- 8 (8) RCW 79.72.080 and 1977 ex.s. c 161 s 8;
- 9 (9) RCW 79.72.090 and 1977 ex.s. c 161 s 9;
- 10 (10) RCW 79.72.100 and 1988 c 36 s 59 & 1977 ex.s. c 161 s 10; and
- 11 (11) RCW 79.72.900 and 1977 ex.s. c 161 s 12.

12 NEW SECTION. **Sec. 20.** The sum of two hundred twenty-five thousand
13 dollars, or as much thereof as may be necessary, is appropriated for
14 the biennium ending June 30, 1993, from the general fund to the state
15 parks and recreation commission for the purposes of this act.

16 NEW SECTION. **Sec. 21.** Sections 1 through 12 and 14 through 18 of
17 this act shall constitute a new chapter in Title 43 RCW.