
ENGROSSED SUBSTITUTE HOUSE BILL 2629

State of Washington

52nd Legislature

1992 Regular Session

By House Committee on Fisheries & Wildlife (originally sponsored by Representatives R. King, Orr, G. Cole, Belcher, May, Rust, Fraser, Morris, R. Meyers, Basich, Leonard, Zellinsky, Nelson and Jacobsen)

Read first time 02/07/92.

1 AN ACT Relating to declining wild stocks of salmonids; amending RCW
2 77.16.220, 43.20.230, 43.21A.064, and 90.42.010; adding a new section
3 to chapter 77.16 RCW; adding a new section to chapter 90.03 RCW; adding
4 a new section to chapter 43.99E RCW; adding new sections to chapter
5 90.22 RCW; and creating new sections.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that certain
8 stocks of wild salmonids are in serious decline, as identified by the
9 American fisheries society and the national marine fisheries service.
10 Water for instream flows is not readily available in some watersheds
11 due to withdrawals for domestic, municipal, industrial, and
12 agricultural use. Screening and metering of water diversions is
13 inadequate in some cases. It is in the public interest to implement
14 proactive measures to assist in recovery of declining wild fish stocks.

1 **Sec. 2.** RCW 77.16.220 and 1980 c 78 s 89 are each amended to read
2 as follows:

3 It is unlawful to divert water from a lake, river, or stream
4 containing game fish unless the water diversion device is equipped at
5 or near its intake with a fish guard or screen to prevent the passage
6 of game fish into the device and, if necessary, with a means of
7 returning game fish from immediately in front of the fish guard or
8 screen to the waters of origin. (~~(A person who is now otherwise~~
9 ~~lawfully diverting water from a lake, river or stream shall not be~~
10 ~~deemed guilty of a violation of this section.))~~)

11 Plans for the fish guard, screen, and bypass shall be approved by
12 the director prior to construction. The installation shall be approved
13 by the director prior to the diversion of water.

14 The director may close a water diversion device operated in
15 violation of this section and keep it closed until it is properly
16 equipped with a fish guard, screen, or bypass.

17 NEW SECTION. **Sec. 3.** A new section is added to chapter 77.16 RCW
18 to read as follows:

19 Persons or agencies that operate diversions that existed before
20 1947 and that are unscreened as of the effective date of this section
21 shall screen their diversions according to RCW 77.16.220 within four
22 years of the effective date of this section.

23 NEW SECTION. **Sec. 4.** A new section is added to chapter 90.03 RCW
24 to read as follows:

25 The director shall determine whether water systems with a capacity
26 to withdraw or divert one or more cubic feet per second of water from
27 the portions of the Columbia or Snake rivers or their tributaries that
28 contain salmon and steelhead should be equipped with devices to measure

1 instantaneous and seasonal water flows. The director shall base this
2 decision on whether such water withdrawals or diversions are
3 potentially harmful to declining stocks of wild salmonids. The
4 director shall ensure that such water systems existing on the effective
5 date of this section are in compliance with this section by December
6 31, 1993. The director shall place conditions on such water systems
7 created after the effective date of this section to comply with this
8 section, and shall ensure compliance with these conditions. The
9 director shall make every effort to seek federal funding to assist in
10 implementing this section.

11 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.99E RCW
12 to read as follows:

13 The department of ecology shall require that agricultural water
14 purveyors completing a conservation plan as part of an application for
15 proceeds from the sale of bonds under RCW 43.99E.025 identify whether
16 and how rate structures could provide an incentive to water users to
17 conserve water.

18 **Sec. 6.** RCW 43.20.230 and 1989 c 348 s 12 are each amended to read
19 as follows:

20 Consistent with the water resource planning process of the
21 department of ecology, the department of ~~((social and))~~ health
22 ~~((services))~~ shall, contingent on the availability of funds:

23 (1) Develop procedures and guidelines relating to water use
24 efficiency, as defined in section 4(3) ~~((of this act))~~, chapter 348,
25 Laws of 1989, to be included in the development and approval of cost-
26 efficient water system plans required under RCW 43.20.050;

27 (2) Develop criteria, with input from technical experts, with the
28 objective of encouraging the cost-effective reuse of greywater and

1 other water recycling practices, consistent with protection of public
2 health and water quality; ((and))

3 (3) Provide advice and technical assistance upon request in the
4 development of water use efficiency plans and model rate-setting
5 formulas; and

6 (4) Develop alternative model rate-setting formulas for water
7 conservation and provide these to public water purveyors.

8 **Sec. 7.** RCW 43.21A.064 and 1977 c 75 s 46 are each amended to read
9 as follows:

10 The director of the department of ecology shall have the following
11 powers and duties:

12 (1) The supervision of public waters within the state and their
13 appropriation, diversion, and use, and of the various officers
14 connected therewith;

15 (2) Insofar as may be necessary to assure safety to life or
16 property, he shall inspect the construction of all dams, canals,
17 ditches, irrigation systems, hydraulic power plants, and all other
18 works, systems, and plants pertaining to the use of water, and ((he))
19 the director may require such necessary changes in the construction or
20 maintenance of said works, to be made from time to time, as will
21 reasonably secure safety to life and property;

22 (3) ((He)) The director shall regulate and control the diversion of
23 water in accordance with the rights thereto;

24 (4) ((He)) The director shall develop alternative rate-setting
25 formulas for water conservation and provide these to irrigation
26 districts;

27 (5) The director shall determine the discharge of streams and
28 springs and other sources of water supply, and the capacities of lakes

1 and of reservoirs whose waters are being or may be utilized for
2 beneficial purposes;

3 ~~((5) He))~~ (6) The director shall keep such records as may be
4 necessary for the recording of the financial transactions and
5 statistical data thereof, and shall procure all necessary documents,
6 forms, and blanks. ~~((He))~~ The director shall keep a seal of the
7 office, and all certificates by ~~((him))~~ the director covering any of
8 his or her acts or the acts of ~~((his))~~ the office, or the records and
9 files of ~~((his))~~ the office, under such seal, shall be taken as
10 evidence thereof in all courts;

11 ~~((6) He))~~ (7) The director shall render when required by the
12 governor, a full written report of the work of ~~((his))~~ the office with
13 such recommendations for legislation as he or she may deem advisable
14 for the better control and development of the water resources of the
15 state;

16 ~~((7))~~ (8) The director and duly authorized deputies may
17 administer oaths;

18 ~~((8) He))~~ (9) The director shall establish and promulgate rules
19 governing the administration of chapter 90.03 RCW;

20 ~~((9) He))~~ (10) The director shall perform such other duties as may
21 be prescribed by law.

22 NEW SECTION. Sec. 8. By December 31, 1992, the director of
23 the department of ecology and the secretary of health shall recommend
24 to the appropriate legislative committees whether there is a need for
25 additional cost-share programs as incentives for water purveyors to
26 adopt water conservation measures.

27 NEW SECTION. Sec. 9. By October 1, 1993, each of the
28 following water purveyors of potable water or water for irrigation

1 shall evaluate whether it is appropriate to adopt and implement water
2 delivery rate structures that encourage water conservation:

3 (1) Public water systems operated by a city or town;

4 (2) Public utility districts;

5 (3) Water districts;

6 (4) Public water companies with more than one thousand service
7 connections;

8 (5) Counties; and

9 (6) Irrigation districts.

10 NEW SECTION. **Sec. 10.** Within ninety days of making the
11 evaluation required by section 9 of this act, the water purveyor shall
12 submit the evaluation and supporting documentation to the departments
13 of ecology and health and to the appropriate committees of the
14 legislature.

15 NEW SECTION. **Sec. 11.** A new section is added to chapter 90.22 RCW
16 to read as follows:

17 By December 31, 1992, the department of ecology shall, in
18 cooperation with the departments of fisheries and wildlife and other
19 parties, establish a list of priorities for evaluation and
20 implementation of minimum flows in basins with declining stocks of wild
21 salmonids. In establishing these priorities, the department shall
22 consider the recovery of anadromous wild salmonids as its primary goal.
23 The department shall, at a minimum, consider as possible priorities the
24 rivers identified by the American Fisheries Society as containing
25 stocks of wild salmonids that are declining due to low flows. These
26 rivers are: The Tahuya, Dungeness, Dewatto, Wenatchee, Entiat,
27 Cowlitz, Okanagan, and Methow rivers.

1 NEW SECTION. **Sec. 12.** A new section is added to chapter 90.22 RCW
2 to read as follows:

3 The priorities established under section 11 of this act shall be
4 presented to the appropriate legislative committees and to the water
5 resources forum.

6 **Sec. 13.** RCW 90.42.010 and 1991 c 347 s 5 are each amended to read
7 as follows:

8 (1) The legislature finds that a need exists to develop and test a
9 means to facilitate the voluntary transfer of water and water rights,
10 including conserved water, to provide water for presently unmet needs
11 and emerging needs. Further, the legislature finds that water
12 conservation activities have the potential of affecting the quantity of
13 return flow waters to which existing water right holders have a right
14 to and rely upon. It is the intent of the legislature that persons
15 holding rights to water, including return flows, not be adversely
16 affected in the implementation of the provisions of this chapter.

17 The purpose of this chapter is to provide the mechanism for
18 accomplishing this in a manner that will not impair existing rights to
19 water and to test the mechanism in two pilot planning areas designated
20 pursuant to RCW 90.54.045(2) and in the water resource inventory areas
21 designated under subsection (2) of this section.

22 (2) The department may designate up to four water resource
23 inventory areas west of the crest of the Cascade mountains and up to
24 four water resource inventory areas east of the crest of the Cascade
25 mountains, as identified pursuant to chapter 90.54 RCW. The areas
26 designated shall contain critical water supply problems and shall
27 provide an opportunity to test and evaluate a variety of applications
28 of RCW 90.42.010 through 90.42.090, including application to municipal,
29 industrial, and agricultural use. The department shall seek advice

1 from appropriate state agencies, Indian tribes, local governments,
2 representatives of water right holders, and interested parties before
3 identifying such water resource inventory areas.

4 (3) The department shall provide to the appropriate legislative
5 committees by December 31, 1993, a written evaluation of the
6 implementation of RCW 90.42.010 through 90.42.090 and recommendations
7 for future application. Recommendations shall include methods of
8 applying RCW 90.42.010 through 90.42.090 to the rivers that are
9 designated as high priority by the department of ecology under section
10 11 of this act in order to use net water savings to achieve minimum
11 flows.