
ENGROSSED SUBSTITUTE HOUSE BILL 1309

State of Washington

53rd Legislature

1993 Regular Session

By House Committee on Fisheries & Wildlife (originally sponsored by Representatives King, Orr, Scott, G. Cole, Basich, Lemmon, Morris, Jones, Rust, Holm, R. Meyers, Johanson, J. Kohl, Jacobsen and Leonard)

Read first time 03/01/93.

1 AN ACT Relating to fish and wildlife management; amending RCW
2 43.20.230, 90.03.360, and 90.42.010; adding a new section to chapter
3 75.28 RCW; adding a new section to chapter 79.01 RCW; adding a new
4 section to chapter 77.12 RCW; adding a new section to chapter 43.20
5 RCW; adding a new section to chapter 90.54 RCW; adding a new section to
6 chapter 90.22 RCW; adding a new chapter to Title 28A RCW; and creating
7 new sections.

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

9 NEW SECTION. **Sec. 1.** The legislature finds that many wild stocks
10 of salmonids in the state of Washington are in a state of decline.
11 Stocks of salmon on the Columbia and Snake rivers have been listed
12 under the federal endangered species act, and the bull trout has been
13 petitioned for listing. Some scientists believe that numerous other
14 stocks of salmonids in the Pacific Northwest are in decline or possibly
15 extinct. The legislature declares that to lose wild stocks is
16 detrimental to the genetic diversity of the fisheries resource and the
17 economy, and will represent the loss of a vital component of
18 Washington's aquatic ecosystems. The legislature further finds that
19 there is a continuing loss of habitat for fish and wildlife. The

1 legislature declares that steps must be taken in the areas of wildlife
2 and fish habitat management, water conservation, wild salmonid stock
3 protection, and education to prevent further losses of Washington's
4 fish and wildlife heritage.

5 NEW SECTION. **Sec. 2.** By July 1, 1994, the departments of
6 fisheries and wildlife jointly with the appropriate Indian tribes,
7 shall each establish a wild salmonid policy. The policy shall ensure
8 that department actions and programs are consistent with the goals of
9 rebuilding wild stock populations to levels that permit commercial and
10 recreational fishing opportunities.

11 NEW SECTION. **Sec. 3.** By July 1, 1994, the department of fisheries
12 and the department of wildlife shall jointly, with input from the
13 Indian tribes and after coordination with California, Oregon, Idaho,
14 Montana, Alaska, British Columbia, and appropriate federal agencies,
15 report to the appropriate legislative committees on the feasibility of
16 implementing selective marking techniques that can be used to minimize
17 impacts of fishing on wild or natural stocks of salmonids. The report
18 shall address costs, benefits, and risks associated with marking.

19 NEW SECTION. **Sec. 4.** A new section is added to chapter 75.28 RCW
20 to read as follows:

21 The department of fisheries shall evaluate and recommend, in
22 consultation with the Indian tribes, salmon fishery management
23 strategies and gear types, as well as a schedule for implementation,
24 that will minimize the impact of commercial and recreational fishing in
25 the mixed stock fishery on critical and depressed wild stocks of
26 salmonids. As part of this evaluation, the department, in conjunction
27 with the commercial and recreational fishing industries, shall evaluate
28 commercial and recreational salmon fishing gear types developed by
29 these industries. The department of fisheries shall present status
30 reports to the appropriate committees of the legislature by December 31
31 of each year in 1993, 1994, and 1995, and shall present the final
32 evaluation and recommendations by December 31, 1996.

33 NEW SECTION. **Sec. 5.** A new section is added to chapter 79.01 RCW
34 to read as follows:

1 (1) By December 31, 1993, the department of wildlife and the
2 department of fisheries shall each develop goals for the wildlife and
3 fish that these agencies respectively manage, to preserve, protect, and
4 perpetuate wildlife and fish on shrub steppe habitat or on lands that
5 are presently agricultural lands, rangelands, or grazable woodlands.
6 These goals shall be consistent with the maintenance of a healthy
7 ecosystem.

8 (2) By October 31, 1993, the conservation commission shall appoint
9 a technical advisory committee to develop standards that achieve the
10 goals developed in subsection (1) of this section. The committee
11 members shall include but not be limited to technical experts
12 representing the following interests: Agriculture, academia, range
13 management, utilities, environmental groups, commercial and
14 recreational fishing interests, the Washington rangelands committee,
15 Indian tribes, the department of wildlife, the department of fisheries,
16 the department of natural resources, the department of ecology,
17 conservation districts, and the department of agriculture. A member of
18 the conservation commission shall chair the committee.

19 (3) By December 31, 1994, the committee shall develop standards to
20 meet the goals developed under subsection (1) of this section. These
21 standards shall not conflict with the recovery of wildlife or fish
22 species that are listed or proposed for listing under the federal
23 endangered species act.

24 (4) The conservation commission shall approve the standards and
25 shall provide them to the departments of natural resources and
26 wildlife, each of the conservation districts, Washington State
27 University cooperative extension service, and the appropriate
28 committees of the legislature. The conservation districts shall make
29 these standards available to the public and for coordinated resource
30 management planning. Application to private lands is voluntary.

31 (5) The department of natural resources shall implement practices
32 necessary to meet the standards developed pursuant to this section on
33 department-owned and managed agricultural and grazing lands, consistent
34 with the trust mandate of the Washington state Constitution and Title
35 79 RCW. The standards may be modified on a site-specific basis as
36 needed to achieve the fish and wildlife goals, and as determined by the
37 department of fisheries or wildlife, and the department of natural
38 resources. Existing lessees shall be provided an opportunity to
39 participate in any site-specific field review. Department agricultural

1 and grazing leases issued after December 31, 1994, shall be subject to
2 practices to achieve the standards that meet those developed pursuant
3 to this section.

4 NEW SECTION. **Sec. 6.** A new section is added to chapter 77.12 RCW
5 to read as follows:

6 The department of wildlife shall implement practices necessary to
7 meet or exceed the standards developed under section 5 of this act on
8 agency-owned and managed agricultural and grazing lands. The standards
9 may be modified on a site-specific basis as necessary and as determined
10 by the department of fisheries or wildlife, for species that these
11 agencies respectively manage, to achieve the goals established under
12 section 5(1) of this act. Existing lessees shall be provided an
13 opportunity to participate in any site-specific field review.
14 Department agricultural and grazing leases issued after December 31,
15 1994, shall be subject to practices to achieve the standards that meet
16 or exceed those developed pursuant to section 5 of this act.

17 NEW SECTION. **Sec. 7.** Washington State University shall report to
18 the appropriate legislative committees by December 31, 1993, on how to
19 best integrate fish and wildlife considerations with the existing
20 curriculum in the university's agriculture department and with the
21 university cooperative extension service. The university shall also
22 report on the feasibility and cost of creating a rotational assignment
23 with the department of wildlife to accomplish cross-training in
24 wildlife and fish habitat management and farm and grazing management.

25 NEW SECTION. **Sec. 8.** By July 1, 1993, the departments of
26 fisheries and wildlife shall provide information on salmonid stock
27 status, by individual stock, to the department of ecology, the
28 Washington association of cities, the Washington state association of
29 counties, and water purveyors.

30 **Sec. 9.** RCW 43.20.230 and 1989 c 348 s 12 are each amended to read
31 as follows:

32 Consistent with the water resource planning process of the
33 department of ecology, the department of ((social and)) health
34 ((services)) shall((, contingent on the availability of funds)):

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

5 (2) Develop criteria, with input from technical experts, with the
6 objective of encouraging the cost-effective reuse of greywater and
7 other water recycling practices, consistent with protection of public
8 health and water quality; (~~and~~)

9 (3) Provide advice and technical assistance upon request in the
10 development of water use efficiency plans; and

11 (4) Provide advice and technical assistance on request for
12 development of model (~~rate setting formulas~~) conservation rate
13 structures for public water systems. Subsections (1), (2), and (3) of
14 this section are subject to the availability of funding.

15 NEW SECTION. Sec. 10. A new section is added to chapter 43.20 RCW
16 to read as follows:

17 Water purveyors required to develop a water system plan pursuant to
18 RCW 43.20.230 shall evaluate the feasibility of adopting and
19 implementing water delivery rate structures that encourage water
20 conservation. This information shall be included in water system plans
21 submitted to the department of health for approval after July 1, 1993.
22 The department shall evaluate the following:

23 (1) Rate structures currently used by public water systems in
24 Washington; and

25 (2) Economic and institutional constraints to implementing
26 conservation rate structures.

27 The department shall provide its findings to the appropriate committees
28 of the legislature no later than December 31, 1995.

29 NEW SECTION. Sec. 11. A new section is added to chapter 90.54 RCW
30 to read as follows:

31 The department, in cooperation with the Washington state water
32 resources association, shall accomplish the following:

33 (1) Determine and evaluate rate structures currently used by
34 irrigation districts in the state of Washington;

35 (2) Identify economic and institutional constraints to implementing
36 conservation rate structures; and

1 (3) Develop model conservation rate structures for consideration by
2 irrigation districts.
3 The department shall provide its findings to the appropriate committees
4 of the legislature no later than December 31, 1993.

5 **Sec. 12.** RCW 90.03.360 and 1989 c 348 s 6 are each amended to read
6 as follows:

7 (1) The owner or owners of any (~~ditch or canal~~) water diversion
8 shall maintain, to the satisfaction of the department of ecology,
9 substantial controlling works, and a measuring device at the point
10 where the water is diverted, and these shall be so constructed and
11 maintained as to permit accurate measurement and practical regulation
12 of the flow of water diverted (~~into said ditch or canal~~). Every
13 owner or manager of a reservoir for the storage of water shall
14 construct and maintain, when required by the department, any measuring
15 device necessary to ascertain the natural flow into and out of said
16 reservoir.

17 Metering of diversions or measurement by other approved methods
18 shall be required as a condition for all new surface water right
19 permits, and except as provided in subsection (2) of this section, may
20 be required as a condition for all ((new)) previously existing surface
21 water ((right permits)) rights. The department may also require, as a
22 condition for (~~such permits~~) all water rights, metering of
23 diversions, and reports regarding such metered diversions as to the
24 amount of water being diverted. Such reports shall be in a form
25 prescribed by the department.

26 (2) Where water diversions are from waters in which the salmonid
27 stock status is depressed or critical, as determined by the departments
28 of fisheries and wildlife, or where the volume of water being diverted
29 exceeds one cubic foot per second, the department shall require
30 metering or measurement by other approved methods as a condition for
31 all new and previously existing water rights or claims. The department
32 shall attempt to integrate the requirements of this subsection into its
33 existing compliance workload priorities, but shall prioritize the
34 requirements of this subsection ahead of the existing compliance
35 workload where a delay may cause the decline of wild salmonids. The
36 department shall notify the departments of fisheries and wildlife of
37 the status of fish screens associated with these diversions.

1 This subsection (2) shall not apply to diversions for public or
2 private hatcheries or fish rearing facilities if the diverted water is
3 returned directly to the waters from which it was diverted.

4 NEW SECTION. Sec. 13. A new section is added to chapter 90.22 RCW
5 to read as follows:

6 By December 31, 1993, the department of ecology shall, in
7 cooperation with the Indian tribes, and the departments of fisheries
8 and wildlife, establish a state-wide list of priorities for evaluation
9 of instream flows. In establishing these priorities, the department
10 shall consider the achievement of wild salmonid production as its
11 primary goal.

12 The priority list shall be presented to the appropriate legislative
13 committees and to the water resources forum by December 31, 1993.

14 **Sec. 14.** RCW 90.42.010 and 1991 c 347 s 5 are each amended to read
15 as follows:

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

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

30 (2) The department may designate up to four water resource
31 inventory areas west of the crest of the Cascade mountains and up to
32 four water resource inventory areas east of the crest of the Cascade
33 mountains, as identified pursuant to chapter 90.54 RCW. The areas
34 designated shall contain critical water supply problems and shall
35 provide an opportunity to test and evaluate a variety of applications
36 of RCW 90.42.010 through 90.42.090, including application to municipal,
37 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 13 of this act in order to use net water savings to enhance stream
11 flows.

12 NEW SECTION. **Sec. 15.** The governor's council on environmental
13 education created in 1990 by executive order 90-06, shall accomplish
14 the following:

15 (1) Raise and distribute public and private funds for the purpose
16 of providing environmental education programs and projects in fish and
17 wildlife preservation and management to public and private elementary
18 and secondary schools, emphasizing the importance of species
19 conservation and fish and wildlife as indicators of ecosystem health;
20 and

21 (2) Support interdisciplinary programs that integrate fish and
22 wildlife preservation and management with other areas of environmental
23 education.

24 NEW SECTION. **Sec. 16.** Section 15 of this act shall constitute a
25 new chapter in Title 28A RCW.

26 NEW SECTION. **Sec. 17.** If specific funding for this act,
27 referencing this act by bill number, is not provided by June 30, 1993,
28 in the omnibus appropriations act, this act is null and void.

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