
HOUSE BILL 2836

State of Washington

55th Legislature

1998 Regular Session

By Representatives Pennington, Mielke, Hatfield, Doumit, Buck, Boldt, Dunn, Alexander, Carlson, Kessler, McCune, Thompson and Conway

Read first time 01/21/98. Referred to Committee on Natural Resources.

1 AN ACT Relating to a pilot program for the recovery of fish runs
2 listed under the federal endangered species act; and creating new
3 sections.

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

5 NEW SECTION. **Sec. 1.** The legislature recognizes the need to
6 address listings that are made under the federal endangered species act
7 (16 U.S.C. Sec. 1531 et seq.) in a way that will make the most
8 efficient use of existing efforts. The legislature finds that the
9 principle of adaptive management requires that different models should
10 be tried so that the lessons learned from these models can be put to
11 use throughout the state. It is the intent of the legislature to
12 create a pilot program for southwestern Washington to address the
13 recent steelhead listings and which takes full advantage of all state
14 and local efforts at habitat restoration in that area to date.

15 NEW SECTION. **Sec. 2.** (1) A pilot program for steelhead recovery
16 is established in Clark, Cowlitz, Lewis, Skamania, and Wahkiakum
17 counties within the habitat area classified as the fourth evolutionary
18 significant unit by the federal national marine fisheries service. The

1 management board created under subsection (2) of this section is
2 responsible for implementing the pilot program.

3 (2) A management board consisting of seventeen members is created
4 within the evolutionary significant unit. The members shall consist of
5 one county commissioner from each of the five participating counties
6 selected by each county legislative authority; one member representing
7 the cities contained within the evolutionary significant unit as a
8 nonvoting member; a representative of the Cowlitz Tribe appointed by
9 the tribe; one state legislator elected from one of the legislative
10 districts contained within the evolutionary significant unit selected
11 by that group of state legislators representing the area; one
12 representative of small timber companies appointed by the five county
13 commissioner members; one representative of large timber companies
14 appointed by the five county commissioner members; one utility
15 representative appointed by the five county commissioner members; one
16 representative of the Washington rivers council who is familiar with
17 southwestern Washington selected by the five county commissioner
18 members; one member representing conservation districts selected by the
19 conservation districts contained within the evolutionary significant
20 unit; and four representatives of state agencies who shall be nonvoting
21 members of the management board. The directors of the departments of
22 ecology, fish and wildlife, and transportation, and the commissioner of
23 public lands shall appoint a representative to the management board.
24 The state agency representatives are responsible for coordinating the
25 delivery of necessary technical assistance to the management board from
26 their agencies. The chair of the board shall be selected from among
27 the voting members of the board. In making appointments under this
28 subsection, the county commissioners shall consider recommendations of
29 interested parties. Vacancies shall be filled in the same manner as
30 the original appointments were selected. No action may be brought or
31 maintained against any management board member, the management board,
32 or any of its agents, officers, or employees for any noncontractual
33 acts or omissions in carrying out the purposes of this section.

34 (3)(a) The management board is responsible for implementing the
35 habitat portions of the local government responsibilities of the lower
36 Columbia steelhead conservation initiative approved by the state and
37 the national marine fisheries service. The management board may work
38 in cooperation with the state and the national marine fisheries service
39 to modify the initiative, or to address habitat for other aquatic

1 species that may be subsequently listed under the federal endangered
2 species act. The management board may not exercise authority over land
3 or water within the individual counties or otherwise preempt the
4 authority of any units of local government.

5 (b) The management board shall develop a recovery plan to implement
6 its responsibilities under (a) of this subsection. The recovery plan
7 shall integrate local watershed efforts and activities, as well as any
8 habitat conservation plans, into the implementation plan. The
9 implementation plan shall include an assessment of prioritized streams,
10 and a method for monitoring progress in implementing the plan. The
11 recovery plan must be adopted by the legislative authority of each of
12 the participating counties. After the adoption of the plan by each of
13 the participating county legislative authorities, the plan shall be
14 adopted by rule by the department of ecology. In adopting the plan by
15 rule, the department of ecology may use the expedited rule adoption
16 process contained in RCW 34.05.230. The department of ecology is not
17 required to prepare a small business economic impact statement for the
18 adoption of the plan, and the adoption of the plan does not constitute
19 a significant legislative rule as defined in RCW 34.05.328. Any of the
20 participating counties may continue its own efforts for restoring
21 steelhead habitat if an implementation plan cannot be agreed to by all
22 of the participating counties. Nothing in this section limits the
23 authority of units of local government to enter into interlocal
24 agreements under chapter 39.34 RCW or any other provision of law.

25 (c) The management board shall prioritize and approve projects and
26 programs related to the recovery of lower Columbia river steelhead
27 runs, including the funding of those projects and programs, and
28 coordinate local government efforts to restore these fish runs. The
29 management board shall establish criteria for funding projects and
30 programs based upon their likely value in steelhead recovery. The
31 management board may consider local economic impact among the criteria,
32 but jurisdictional boundaries and factors related to jurisdictional
33 population may not be considered as part of the criteria.

34 (d) The management board shall assess the factors for decline along
35 each prioritized stream as listed in the lower Columbia steelhead
36 conservation initiative. The management board is encouraged to take a
37 stream-by-stream approach in conducting the assessment which utilizes
38 state and local expertise, including volunteer groups, interest groups,
39 and affected units of local government.

1 (4) The management board has the authority to hire and fire staff,
2 including an executive director, enter into contracts, accept grants
3 and other moneys, disburse funds, make recommendations to cities and
4 counties about potential code changes and the development of programs
5 and incentives upon request, pay all necessary expenses, and may choose
6 a fiduciary agent. The management board shall report on its progress
7 on a quarterly basis to the legislative bodies of the five
8 participating counties and the state natural resource-related agencies.

9 (5) The pilot program terminates on July 1, 2002.

10 (6) For purposes of this section, "evolutionary significant unit"
11 means the habitat area identified for an evolutionary significant unit
12 of an aquatic species listed or proposed for listing as a threatened or
13 endangered species under the federal endangered species act (16 U.S.C.
14 Sec. 1531 et seq.).

--- END ---