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**SUBSTITUTE HOUSE BILL 3049**

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**State of Washington**

**55th Legislature**

**1998 Regular Session**

**By** House Committee on Agriculture & Ecology (originally sponsored by Representatives Linville, Chandler, Fisher, Mastin, Murray, Romero, Gardner, Robertson, Regala, K. Schmidt, Mitchell, Huff, Cooper, Scott, Tokuda, Mason, Ogden, Kenney and Morris)

Read first time 02/05/98. Referred to Committee on .

1 AN ACT Relating to watershed planning and alternative project  
2 mitigation strategies; adding new sections to chapter 90.82 RCW;  
3 creating new sections; and making an appropriation.

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

5 NEW SECTION. **Sec. 1.** FINDINGS--PURPOSE. (1) The legislature  
6 finds that mitigation dollars invested in a watershed can be  
7 substantial. Many state agencies and programs have responsibilities  
8 that affect these investments. State effort to evaluate how to  
9 optimize the planning, permitting, construction, and monitoring of  
10 mitigation actions in the context of watershed management needs to be  
11 coordinated. Project mitigation for unavoidable impacts usually  
12 focuses on on-site, in-kind mitigation activities that can lead to  
13 costly projects that may not provide maximum environmental and fiscal  
14 benefits.

15 (2) The legislature finds that the departments of ecology, fish and  
16 wildlife, and transportation have taken lead roles in integrating  
17 watershed planning with mitigation activities. Alternative mitigation  
18 pilot projects and technical committees have been formed in accordance

1 with legislation, budget provisos, and the funding of decision  
2 packages.

3 (3) The legislature finds that in order to advance mitigation as a  
4 tool for effective watershed management, state agencies should develop  
5 a common framework for evaluating mitigation alternatives within and  
6 between watershed resources. Critical resources to be considered in  
7 identifying project and activity priorities include wetlands,  
8 threatened and endangered species and their habitats, fish passage,  
9 storm water, flooding, water quality, water quantity, and any other  
10 resources identified by a watershed group. This effort should  
11 initially focus on projects with low environmental risk and a higher  
12 net environmental benefit than status quo mitigation options. This  
13 effort should support watershed planning and complement the work  
14 initiated by the departments of ecology and transportation. An  
15 evaluation of data requirements, decision-making framework, permitting  
16 concerns, and appropriate watershed scale can be made and  
17 recommendations provided to watershed planning groups.

18 (4) The purpose of this act is to establish a multiagency work  
19 group to develop guidance to be used for evaluating mitigation  
20 alternatives that will enable local watershed planning groups to  
21 develop and implement watershed plans that maximize environmental  
22 benefits from project mitigation while reducing project design and  
23 permitting costs. The purpose of this act is not to increase  
24 regulatory requirements or expand departmental authority.

25 NEW SECTION. **Sec. 2.** WATERSHED MITIGATION COORDINATION WORK  
26 GROUP. (1) The department of transportation, the department of fish  
27 and wildlife, and the department of ecology shall cochair a work group  
28 responsible for providing guidance to watershed groups in evaluating  
29 how mitigation efforts can be used to support watershed protection,  
30 restoration, and enhancement activities. The work group shall develop  
31 a framework for evaluating alternative mitigation options that meets  
32 the intent of state and federal resource protection laws but reconciles  
33 these laws with watershed-based priorities and local resource  
34 protection ordinances adopted under such laws as the growth management  
35 act and shoreline management act.

36 (2) In order to maximize effectiveness, the work group shall seek  
37 technical assistance from stakeholders, existing work groups,  
38 committees, and advisory panels including but not limited to: The

1 wetland strategic plan implementation committee; the storm water  
2 technical work group; the fish passage barrier removal task force  
3 created in RCW 75.50.160; the flood emergency permit streamlining work  
4 group; and the water-endangered species act work group.

5 (3) The work group shall develop guidance for determining  
6 alternative mitigation opportunities. Such guidance shall include  
7 criteria and procedures for identifying and evaluating mitigation  
8 opportunities within a watershed. Such guidance shall create  
9 procedures that provide alternative mitigation which has a low risk to  
10 the environment, yet has a high net environmental, social, and economic  
11 benefit compared to status quo options.

12 (4) The work group shall evaluate the following elements of  
13 mitigation: Data requirements, decision-making framework, state agency  
14 coordination, permitting, and appropriate watershed scale.

15 (5) Alternative mitigation analysis should consider the following:

16 (a) The abundance and quality of the impacted resource;

17 (b) The relative value of the mitigation for the critical watershed  
18 resources in terms of the quality and quantity of biological functions  
19 and values provided;

20 (c) The compatibility of the proposal with the intent of broader  
21 watershed management objectives and plans;

22 (d) The ability of the mitigation to address scarce functions or  
23 values within a watershed;

24 (e) The benefits of the proposal to broader watershed goals,  
25 including the benefits of connecting various habitat units or providing  
26 functions for target species;

27 (f) The benefits of early implementation of habitat mitigation for  
28 projects that provide compensatory mitigation in advance of the  
29 project's planned impacts;

30 (g) The significance of any negative impacts to nontarget species  
31 or resources due to the proposed alternative mitigation;

32 (h) Social and economic impacts to communities within the  
33 watershed;

34 (i) Expected future development and infrastructure changes; and

35 (j) Systems to track and prioritize deferred resource impacts for  
36 potential future mitigation.

37 (6) The work group shall seek opportunities to implement the  
38 guidance and showcase the best examples of maximized environmental  
39 benefits with reduced project design and permitting costs. The

1 departments of ecology and transportation shall report to the  
2 legislature each year on the progress.

3 NEW SECTION. **Sec. 3.** ALTERNATIVE MITIGATION STRATEGIES. (1) In  
4 order to facilitate effectiveness of alternative mitigation strategies,  
5 watershed plans should identify and prioritize creation, restoration,  
6 enhancement, and preservation opportunities that local governments,  
7 conservation districts, local and state public works agencies, and  
8 private developers may use.

9 (2) Priority goals identified in a watershed plan should be used to  
10 guide alternative mitigation strategies. Such analysis should use best  
11 available scientific methods for assessing and prioritizing watershed  
12 values and functions.

13 (3) The watershed planning group should maintain a data base of  
14 impacts, mitigation, preservation, and restoration gains to track  
15 resource gains and losses under the watershed plan.

16 (4) To support alternative mitigation strategies, watershed plans  
17 should include a geographic-information-systems compatible data base of  
18 prioritized restoration and enhancement projects and activities.

19 NEW SECTION. **Sec. 4.** CAPTIONS NOT LAW. Section captions used in  
20 this act are not any part of the law.

21 NEW SECTION. **Sec. 5.** Sections 2 and 3 of this act are each added  
22 to chapter 90.82 RCW.

23 NEW SECTION. **Sec. 6.** The sum of . . . . dollars, or as much  
24 thereof as may be necessary, is appropriated for the fiscal year ending  
25 June 30, 1999, from the general fund to the department of  
26 transportation and the department of ecology for the purposes of this  
27 act.

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