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HOUSE BILL 3049

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State of Washington

55th Legislature

1998 Regular Session

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 01/28/98. Referred to Committee on Agriculture & Ecology.

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 and  
16 transportation have taken lead roles in integrating watershed planning  
17 with mitigation activities. Alternative mitigation pilot projects and  
18 technical committees have been formed in accordance with legislation,  
19 budget provisos, and the funding of decision packages.

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

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

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

33 (2) In order to maximize effectiveness, the work group shall seek  
34 technical assistance from stakeholders, existing work groups,  
35 committees, and advisory panels including but not limited to: The  
36 wetland strategic plan implementation committee; the storm water  
37 technical work group; the fish passage barrier removal task force

1 created in RCW 75.50.160; the flood emergency permit streamlining work  
2 group; and the water-endangered species act work group.

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

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

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

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

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

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

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

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

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

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

30 (h) Social and economic impacts to communities within the  
31 watershed;

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

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

35 (6) The work group shall seek opportunities to implement the  
36 guidance and showcase the best examples of maximized environmental  
37 benefits with reduced project design and permitting costs. The  
38 departments of ecology and transportation shall report to the  
39 legislature each year on the progress.

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

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

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

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

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

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

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

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