
SUBSTITUTE SENATE BILL 5386

State of Washington

55th Legislature

1997 Regular Session

By Senate Committee on Natural Resources & Parks (originally sponsored by Senators Oke, Prentice, Patterson, Kline, Haugen, Kohl, Winsley, Franklin and Rasmussen; by request of Department of Fish and Wildlife, Commissioner of Public Lands and Department of Natural Resources)

Read first time 02/17/97.

1 AN ACT Relating to the jobs for the environment program; adding new
2 sections to chapter 43.21J RCW; repealing RCW 43.21J.005, 43.21J.010,
3 43.21J.020, 43.21J.030, 43.21J.040, 43.21J.050, 43.21J.060, 43.21J.070,
4 43.21J.800, 43.21J.900, 43.21J.901, 43.21J.902, 43.21J.903, and
5 43.21J.904; providing an effective date; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds the long-term
8 health of the economy of Washington state depends on healthy natural
9 resources.

10 (2) The legislature further finds the livelihoods, revenues, and
11 other benefits derived from Washington's natural resources are
12 threatened by continuing degradation of water quality and habitat, and
13 that investment is required to prevent the collapse of economically
14 important industries that rely on a healthy environment, and improve
15 poorly functioning ecosystems.

16 (3) The legislature further finds fisheries and timber-dependent
17 communities can provide the skills and people and affected natural
18 resource workers could greatly benefit from family wages and benefits
19 employment associated with implementing priority projects.

1 (4) The legislature therefore declares, and it is the intent and
2 purpose of this chapter, to make immediate and continuing investment to
3 restore and conserve the health of the state's watersheds, to foster
4 voluntary watershed partnerships within and near fisheries and timber-
5 dependent communities, to train and employ affected natural resource
6 workers, to minimize the need to list species as threatened or
7 endangered and promote the recovery of those species that remain
8 listed, and to provide funds to continue the department of ecology's
9 Washington conservation corps program. And it is also the intent that
10 employment is at family wages with benefits for those who continue to
11 be affected by economic dislocation.

12 NEW SECTION. **Sec. 2.** The definitions in this section apply
13 throughout this chapter unless the context clearly requires otherwise.

14 (1) "Affected natural resource worker" means those workers eligible
15 to receive wages and benefits through the jobs for the environment
16 program, including:

17 (a) Workers previously employed under the jobs for the environment
18 program;

19 (b) Workers in a qualified natural resource training program such
20 as a state-approved apprenticeship program;

21 (c) New certified dislocated natural resource workers; and

22 (d) The workers listed in (a) through (c) of this subsection are
23 preferred;

24 (e) Other workers from fisheries and timber-dependent communities
25 that have at least a two-year work history in a timber-dependent
26 community.

27 (2) "Agreement" means any jobs for the environment grant,
28 procurement, contract, or other legally binding document.

29 (3) "Conservation" means activities that support the sustainability
30 of critical watershed functions including such activities as field
31 assessment of conditions prior to initiating restoration work and field
32 and mapping functions related to stream typing.

33 (4) "Impact areas" means rural natural resources impact areas as
34 defined in RCW 43.31.601 and areas in which at-risk fish stocks
35 coincide.

36 (5) "Account" means the jobs for the environment restoration
37 account that provides funding to implement the provisions of this
38 chapter to restore and conserve watersheds within Washington state.

1 (6) For the purposes of determining eligibility as a direct
2 applicant to the jobs for the environment program, "private for-profit"
3 is defined as small business, under RCW 19.85.020, which is any
4 business entity including sole proprietorship, corporation,
5 partnership, or other legal entity, that is owned and operated
6 independently from all other businesses that has the purpose of making
7 a profit and has fifty or fewer employees. Any for-profit business is
8 eligible to receive funds as a subcontractor to a locally funded
9 project, regardless of the business size.

10 (7) "Qualified watershed partnership" means an entity consisting of
11 stakeholders representing diverse interests of the watershed and with
12 sufficient authority or resources to carry out a long-term restoration
13 and conservation plan in the area of operation they have identified.

14 (8) "Task force" means the jobs for the environment task force
15 created under section 4 of this act.

16 (9) "Watershed restoration" means altering current conditions in
17 measurable ways to provide water quality and habitat adequate to
18 contribute to the sustainability of healthy, diverse populations of
19 fish and wildlife in a watershed.

20 NEW SECTION. Sec. 3. (1) The jobs for the environment restoration
21 account is established in the state treasury. Money in the account may
22 be spent only after appropriation by the legislature and in a manner
23 consistent with this chapter.

24 (2) Entities eligible to apply for funds include private
25 nonprofits, small private for-profits, and local, state, and tribal
26 governments.

27 (3) Funds may only be expended under restoration and conservation
28 agreements entered into by the state under this chapter that are part
29 of a long-term restoration and conservation planning effort that
30 includes an acceptable multiyear capital investment strategy and
31 contributes to the restoration and conservation identifying financial
32 participation from key public and private partners. The plan provides
33 for a local match consisting of funds or in kind of at least twenty
34 percent in the first year of state investment, and thereafter
35 increasing the nonstate jobs for the environment share by five percent
36 or more each year of the plan in which state jobs for the environment
37 investment is sought, until achieving a fifty-fifty state jobs for the
38 environment funding to nonstate jobs for the environment funding ratio.

1 Match requirements may be adjusted by the task force to avoid cases of
2 unavoidable hardship that would otherwise result in an entity being
3 ineligible.

4 (4) Funds are awarded on a competitive basis. Funds shall be used
5 for watershed and conservation projects and programs as jointly
6 identified by the department of natural resources and the department of
7 fish and wildlife with input from the task force. The task force may
8 review, evaluate, and make recommendations on projects and programs
9 being considered for funding. Of the funds available within the
10 account, the task force may recommend projects or programs that will:

11 (a) Use up to twenty-five percent of the funds available to fund
12 projects from within impact areas as determined by the task force to
13 exist;

14 (b) Use up to fifty percent of the funds available to fund projects
15 within areas where a qualified watershed partnership exists or would
16 likely exist in the near future as determined by the task force;

17 (c) Use up to thirteen percent of the funds available for local
18 projects that carry out area-wide planning, and project or area-wide
19 monitoring and assessment activities. Up to one-half of the funding in
20 this subsection is available for watershed partnerships not able to
21 meet program planning and monitoring requirements without this
22 assistance.

23 (5) Up to twelve percent may be expended for administrative and
24 technical assistance purposes. However, funds expended by the
25 Washington conservation corps are subject solely to limitations set
26 forth in RCW 43.220.230.

27 (6) Except for essential administrative, supervisory, and technical
28 assistance purposes, funds in the account may not be used for hiring
29 permanent state employees.

30 (7) Funds are not awarded for:

31 (a) Administrative rule making;

32 (b) Community outreach;

33 (c) Acquisition of real property;

34 (d) Mitigation work required under state or federal permits;

35 (e) Incentives or bonuses to salaried employees; or

36 (f) Marketing studies or research.

37 (8) Nonprofit organizations may receive up to ten percent of the
38 agreement award for start-up costs upon submission of their completed
39 scope of work.

1 NEW SECTION. **Sec. 4.** (1) The jobs for the environment task force
2 is created within the department of natural resources. The purpose of
3 the task force is to provide a coordinated and comprehensive approach
4 to implementation of this chapter. The task force consists of the
5 following representative or their designee:

6 (a) The commissioner of public lands;

7 (b) The director of the department of fish and wildlife;

8 (c) The director of the department of ecology;

9 (d) The director of the work force training and education
10 coordinating board;

11 (e) The governor's rural community assistance team coordinator;

12 (f) A tribal representative;

13 (g) A federal agency representative from among participating
14 federal agencies; and

15 (h) At least eight public members but no more than ten, selected at
16 large, representing community and nongovernmental interests.

17 The public members include at least one representative from each of
18 the following:

19 (i) State-wide rural community economic development organization;

20 (ii) A conservation district;

21 (iii) Small restoration business interest;

22 (iv) Fishing and shellfish industry;

23 (v) Organized labor;

24 (vi) Timber industry;

25 (vii) State-wide environmental organization; and

26 (viii) Community-based private nonprofit organization with a
27 watershed restoration focus.

28 The representatives of the tribal, federal, and public members
29 shall serve three-year terms, except for one-third who shall serve an
30 initial term of one year and one-third who shall serve an initial term
31 of two years. The task force may seek the advice of other agencies and
32 organizations as needed. The commissioner of public lands appoints the
33 chair and public members. The governor appoints the governmental
34 members of the task force. A task force quorum for meetings consists
35 of at least one-half of the government and at least one-half plus one
36 of the community, tribal, and public members. All members serve
37 without additional pay, except that public representatives will have
38 travel costs reimbursed. Participation in the work of the committee by
39 agency members is considered in performance of their employment. The

1 department of natural resources will staff and provide administrative
2 support to the task force and solicit the participation of agency
3 personnel to assist the task force.

4 (2) The task force has the following responsibilities:

5 (a) Reviewing and periodically updating criteria to be used in
6 selecting projects and programs for funding from the account;

7 (b) Soliciting on a competitive basis, evaluating, and ranking
8 requests for funds from the account;

9 (c) Recommending plans, projects, agreements, and apprenticeship
10 and other quality training activities as defined in section 2 of this
11 act to the commissioner of public lands for approval and funding;

12 (d) Assisting state agencies and local governments in the
13 implementation of effective watershed restoration and conservation
14 projects funded under this chapter, and in the development of qualified
15 local watershed partnerships and locally based restoration and
16 conservation plans; and

17 (e) Submitting to the appropriate standing committees of the
18 legislature a biennial report summarizing the benefits created by the
19 projects funded under this chapter, and making recommendations for
20 improving the jobs for the environment program.

21 NEW SECTION. **Sec. 5.** The task force evaluates and recommends
22 proposals for funding from the account using, at a minimum, the
23 following criteria:

24 (1) The ability of the proponents of the project to quantify their
25 projected improvements in water or habitat quality and quantity;

26 (2) The inclusion of the project as a priority in a federal, state,
27 tribal, or local plan, until a completed watershed restoration and
28 conservation plan has been prepared;

29 (3) The number and duration of jobs with family wages and benefits
30 to be created or retained for affected natural resource workers by the
31 project; projects that achieve stable, one-year or longer jobs. Jobs
32 that avoid redislocating natural resource workers from the jobs for the
33 environment program are to be given added consideration over those that
34 do not;

35 (4) The extent to which the project will help avoid further
36 listings of threatened or endangered species and providing for recovery
37 of those already listed;

1 (5) The participation as a cosponsor or employer by tribes or
2 private for-profits to provide funds, equipment time, materials, or
3 technical expertise, including training to match state or federal
4 funds. The jobs for the environment program will strongly promote
5 training that is offered through a state-approved natural resource
6 apprenticeship program, whenever practicable, in the area.

7 NEW SECTION. **Sec. 6.** The department of natural resources is the
8 administering state agency for the jobs for the environment program and
9 may enter into such agreements and cooperative watershed partnerships
10 that are needed or desired to ensure the effective implementation of
11 this chapter. The department of fish and wildlife is the source of
12 state assistance for knowledge and technical expertise in addressing
13 fish and wildlife issues. The department of ecology is the source of
14 state assistance for knowledge and expertise in addressing water
15 quality issues.

16 NEW SECTION. **Sec. 7.** An individual is considered to be in
17 training with the approval of the commissioner of employment security
18 as defined in RCW 50.20.043, and is eligible for applicable
19 unemployment insurance benefits while participating in and making
20 satisfactory progress in training related to this chapter.

21 (1) For recruitment purposes, the task force will give notification
22 of potential new jobs to local employment security offices, local labor
23 organizations, and central labor councils in the area of funding. The
24 list includes the number, location, and types of jobs expected to be
25 provided by each project. The employment security department may
26 recruit additional dislocated workers for these jobs, when needed, by:

27 (a) Notifying dislocated fishers and forest workers who meet the
28 definitions in chapter 50.70 RCW, who are receiving unemployment
29 benefits or who have exhausted unemployment benefits, of their
30 eligibility for the programs;

31 (b) Notifying other unemployed workers that have at least a two-
32 year work history in a timber-dependent community;

33 (c) Developing a pool of unemployed workers including high-risk
34 youth eligible to enroll in the program that have at least a two-year
35 work history in a timber-dependent community; and

36 (d) Establishing procedures for workers to apply to the programs.

1 The workers listed in (a) of this subsection shall be notified
2 first.

3 (2) The employment security department will certify and refer
4 eligible workers to employers hiring under the jobs for the environment
5 programs. Recipients of funds must consider the list of eligible
6 workers developed by the employment security department before
7 conducting interviews or making hiring decisions for dislocated workers
8 entering the program. Workers may receive opportunities for vocational
9 training, job placement, and remedial education. The employment
10 security department shall audit each employer at the beginning of each
11 project and every three months thereafter and certify that dislocated
12 fishers and forest workers are being utilized to the greatest extent
13 possible.

14 (3) An individual is eligible for applicable employment security
15 benefits while participating in training related to this chapter.
16 Eligibility is confirmed by the commissioner of employment security by
17 submitting a commissioner-approved training waiver.

18 (4) Persons receiving funds from the account are not considered
19 state employees for the purposes of existing provisions of law with
20 respect to hours of work, sick leave, vacation, and civil service but
21 may receive health benefits. Persons receiving funds from the account
22 who are hired by a state agency may receive medical and dental benefits
23 under chapter 41.05 RCW and industrial insurance coverage under Title
24 51 RCW, but are exempt from the provisions under chapter 41.06 RCW.

25 (5) Employment under this program does not result in the
26 displacement or partial displacement, whether by the reduction of hours
27 of nonovertime work, wages, and benefits, or other employment benefits,
28 of currently employed workers, including but not limited to state civil
29 service employees, or of currently or normally contracted services.

30 (6) With an employer's written consent, workers who must commute
31 daily over sixty miles round trip are eligible for transportation
32 expenses incurred when using a private vehicle.

33 (7) For the purpose of providing the protection of the unemployment
34 compensation system to individuals at the conclusion of training or
35 employment obtained as a result of this chapter, a special base year
36 and benefit year are established.

37 (a) Only individuals who have entered training or employment
38 provided by the account, and whose employment or training under the

1 account was not considered covered under chapter 50.04 RCW, are allowed
2 the special benefit provisions of this chapter.

3 (b) An application for initial determination made under this
4 chapter must be filed in writing with the employment security
5 department within twenty-six weeks following the week in which the
6 individual commenced employment or training obtained as a result of
7 this chapter. Notice from the individual, from the employing entity,
8 or notice of hire from employment security department administrative
9 records satisfies this requirement.

10 (c) For the purpose of this chapter, a special base year is
11 established for an individual consisting of the first four of the last
12 five completed calendar quarters, or if a benefit year is not
13 established using the first four of the last five completed calendar
14 quarters as the base year, the last four completed calendar quarters
15 immediately prior to the first day of the calendar week in which the
16 individual began employment or training provided by the account.

17 (d) A special individual benefit year is established consisting of
18 the entire period of training or employment provided by the account and
19 a fifty-two consecutive week period commencing with the first day of
20 the calendar week in which the individual last participated in the
21 employment or training. No special benefit year may have a duration in
22 excess of three hundred twelve calendar days. This special benefit
23 year is not established unless the criteria contained in RCW 50.04.030
24 has been met, except that an individual meeting the requirements of
25 this chapter and who has an unexpired benefit year established which
26 would overlap the special benefit year may elect to establish a special
27 benefit year under this chapter, notwithstanding the provisions in RCW
28 50.04.030 relating to establishment of a subsequent benefit year, and
29 RCW 50.40.010 relating to waiver of rights. This unexpired benefit
30 year is terminated at the beginning of the special benefit year if the
31 individual elects to establish a special benefit year under this
32 chapter.

33 (e) The individual's weekly benefit amount and maximum amount
34 payable during the special benefit year are governed by the provisions
35 contained in RCW 50.20.120. The individual's basic and continuing
36 right to benefits are governed by the general laws and rules relating
37 to the payment of unemployment compensation benefits to the extent that
38 they are not in conflict with this chapter.

1 (f) The fact that wages, hours, or weeks worked during the special
2 base year may have been used in computation of a prior valid claim for
3 unemployment compensation may not affect a claim for benefits made
4 under this chapter. However, wages, hours, and weeks worked used in
5 computing entitlement on a claim filed under this chapter are not
6 available or used for establishing entitlement or amount of benefits in
7 any succeeding benefit year.

8 (g) Benefits paid to an individual filing under this section are
9 not charged to the experience rating account of any contribution paying
10 employer.

11 (8) The department of labor and industries is directed to expedite
12 through administrative approval of the jobs for the environment
13 program's current wages as the prevailing wages under chapter 39.12 RCW
14 for watershed restoration workers employed under this chapter.

15 NEW SECTION. **Sec. 8.** On or before June 30, 2000, the department
16 of natural resources will prepare a report to the legislature
17 evaluating the implementation of this chapter. Indicators of success
18 that shall be reported on include the following factors:

19 (1) Whether effective local watershed restoration and conservation
20 strategies consistent with state guidelines have been adopted;

21 (2) The number of dislocated fishers and forest workers employed by
22 each project;

23 (3) The number of previously dislocated workers, employed and
24 trained through jobs for the environment, that have found long-term
25 employment;

26 (4) Active use by sponsors of one or more training curriculum for
27 watershed restoration workers that promote effective and consistent
28 skills needed by restoration workers;

29 (5) Whether project design guidelines have been prepared and
30 applied that are based on generally accepted standards and techniques;

31 (6) The number of funded projects underway in a timely manner;

32 (7) The number of projects started versus successfully completed
33 and effectively documented; and the completion of a credible program
34 review allowing the program to learn from individual project strengths
35 and weaknesses;

36 (8) Whether the program's local match requirements are achieving
37 the expected results of promoting strong local support;

1 (9) The effectiveness and quantity of on-the-ground
2 accomplishments, for example, miles of stream bed or riparian area
3 restored, miles of forest roads impacting water quality that are
4 decommissioned, and the effectiveness of stream bank projects to reduce
5 sedimentation; and

6 (10) Whether local watershed health indicators are established and
7 being adequately monitored and reported on to determine area-wide
8 progress in meeting watershed health goals.

9 NEW SECTION. **Sec. 9.** Sections 1 through 8 of this act are each
10 added to chapter 43.21J RCW.

11 NEW SECTION. **Sec. 10.** The following acts or parts of acts are
12 each repealed:

- 13 (1) RCW 43.21J.005 and 1993 c 516 s 1;
- 14 (2) RCW 43.21J.010 and 1995 c 226 s 26 & 1993 c 516 s 2;
- 15 (3) RCW 43.21J.020 and 1993 c 516 s 3;
- 16 (4) RCW 43.21J.030 and 1994 c 264 s 17 & 1993 c 516 s 5;
- 17 (5) RCW 43.21J.040 and 1993 c 516 s 4;
- 18 (6) RCW 43.21J.050 and 1993 c 516 s 8;
- 19 (7) RCW 43.21J.060 and 1993 c 516 s 9;
- 20 (8) RCW 43.21J.070 and 1993 c 516 s 10;
- 21 (9) RCW 43.21J.800 and 1996 c 288 s 36 & 1993 c 516 s 11;
- 22 (10) RCW 43.21J.900 and 1993 c 516 s 15;
- 23 (11) RCW 43.21J.901 and 1993 c 516 s 16;
- 24 (12) RCW 43.21J.902 and 1993 c 516 s 17;
- 25 (13) RCW 43.21J.903 and 1993 c 516 s 19; and
- 26 (14) RCW 43.21J.904 and 1993 c 516 s 20.

27 NEW SECTION. **Sec. 11.** This act is necessary for the immediate
28 preservation of the public peace, health, or safety, or support of the
29 state government and its existing public institutions, and takes effect
30 July 1, 1997.

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