
SENATE BILL 6444

State of Washington

55th Legislature

1998 Regular Session

By Senators Spanel, Fraser, Jacobsen, Haugen, Fairley, Snyder, McAuliffe and Kohl

Read first time 01/19/98. Referred to Committee on Natural Resources & Parks.

1 AN ACT Relating to providing guidance in developing habitat
2 conservation plans and similar endangered species agreements; and
3 adding a new chapter to Title 77 RCW.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

6 (a) Habitat conservation plans and similar agreements authorized
7 under the federal endangered species act may benefit all Washington
8 citizens by providing new measures for the protection and recovery of
9 federally listed species in the state while at the same time providing
10 for greater certainty regarding the responsibilities of land and water
11 managers and others entering these agreements;

12 (b) These agreements, however, may not encompass all activities and
13 persons who may be affected by endangered species act listings in a
14 region or watershed, raising the potential that in the case of multiple
15 agreements covering the same listed species in a region, or some
16 activities and residents being included in the agreements while others
17 are not, there may be inconsistent and unfair restrictions applicable
18 to similarly situated land managers, residents, or other persons
19 affected by the listings;

1 (c) The federal endangered species act provides a substantial role
2 for states and subdivisions of states through the agreements to provide
3 the certainty and flexibility benefits of these agreements to citizens
4 residing within the geographic scope of the agreement; and

5 (d) It is the responsibility of the state and its subdivisions to
6 seek to act in accordance with the broad public interest and to seek to
7 fairly distribute the burden of restrictions as well as the benefits
8 which may accrue under habitat conservation plans and similar
9 agreements.

10 (2) It is the purpose of this chapter to provide policy guidance to
11 state and local government representatives in the development of
12 habitat conservation plans or similar agreements to which the state or
13 its subdivisions will be a party, to ensure maximum fairness and
14 consistency in the treatment of citizens affected by these agreements.

15 NEW SECTION. **Sec. 2.** The policies and procedures provided in
16 sections 3 and 4 of this act apply to all state agencies, general
17 purpose local governments, and special purpose districts when
18 participating in the development of habitat conservation plans or
19 comparable agreements providing for commitments to protective measures
20 for species listed or proposed for listing under the federal endangered
21 species act by the parties to the agreement. When the term "local
22 government" is used in this chapter, it includes both general purpose
23 local governments and special purpose districts. When the terms
24 "habitat conservation plans" and "agreement" are used in this chapter,
25 they include plans and other comparable agreements authorized by the
26 federal endangered species act providing for the protection and
27 recovery of listed species or candidates for listing.

28 NEW SECTION. **Sec. 3.** State and local government representatives
29 participating in the development of habitat conservation plans shall
30 ensure early and meaningful opportunity for public participation,
31 commensurate with the geographic scope and the scope of parties and
32 activities intended to be covered by the agreement. At a minimum, at
33 least one public hearing shall be held on the proposed agreement in a
34 location convenient to the public most directly affected by the
35 proposal. Multiple state and local agencies participating in the
36 development of an agreement may jointly coordinate the public
37 participation element.

1 NEW SECTION. **Sec. 4.** State and local government representatives
2 are to be guided by the following principles in negotiating and
3 entering habitat conservation plans and comparable agreements
4 authorized under the federal endangered species act:

5 (1) The agreements should cover as many lands and activities as
6 possible that relate to the protection and recovery of a listed or
7 candidate species, to avoid unfairness and inconsistencies that may
8 arise with multiple agreements addressing the same species but covering
9 different parties, activities, or geographic areas;

10 (2) Where more than one agreement is under development with
11 different parties, state and local agency representatives should
12 advocate for consistent recovery goals and standards to be applicable
13 to similarly situated parties in the agreements;

14 (3) Recognizing the difficulty in achieving the twin policy
15 objectives of "no surprises" for landowners and at the same time
16 providing flexibility to address unanticipated species protection
17 needs, there should be provision for amending the agreement in the
18 future when additional protective measures are critical for species
19 survival; and

20 (4) The standards for reopening agreements to address unanticipated
21 species protection needs should be tiered to provide fewer
22 opportunities for reopening agreements where the duration of the
23 agreement is relatively brief, such as twenty-five years or less, and
24 providing more opportunities for reopening agreements where the term of
25 the agreement is longer.

26 NEW SECTION. **Sec. 5.** The governor shall issue model guidelines
27 for use by state and local agency representatives when participating in
28 the development of habitat conservation plan agreements. The
29 guidelines shall be consistent with those stated in section 4 of this
30 act, but may provide greater detail and may address additional topics.

31 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act constitute
32 a new chapter in Title 77 RCW.

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