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HOUSE BILL 2079

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State of Washington

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By Representatives Regala, Buck, Eickmeyer, Anderson, Rockefeller, Romero, Veloria and Keiser

Read first time 02/15/1999. Referred to Committee on Natural Resources.

1 AN ACT Relating to salmon recovery; and amending RCW 75.46.010,  
2 75.46.050, 75.46.060, 75.46.070, 75.46.080, 75.46.100, and 75.46.130.

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

4 **Sec. 1.** RCW 75.46.010 and 1998 c 246 s 2 are each amended to read  
5 as follows:

6 The definitions in this section apply throughout this chapter  
7 unless the context clearly requires otherwise.

8 (1) "Adaptive management" means reliance on scientific methods to  
9 test the results of actions taken so that the management and related  
10 policy can be changed promptly and appropriately.

11 (2) "Critical pathways methodology" means a project scheduling and  
12 management process for examining interactions between habitat projects  
13 and salmonid species, prioritizing habitat projects, and assuring  
14 positive benefits from habitat projects.

15 (3) "Habitat project list" is the list of projects resulting from  
16 the critical pathways methodology under RCW 75.46.070(2). Each project  
17 on the list must have a written agreement from the landowner on whose  
18 land the project will be implemented. Projects include habitat  
19 restoration projects, habitat protection projects, habitat projects

1 that improve water quality, habitat projects that protect water  
2 quality, habitat-related mitigation projects, fish passage projects,  
3 fish screening projects, and habitat project corrective maintenance and  
4 monitoring activities.

5 (4) "Habitat work schedule" means those projects from the habitat  
6 project list that will be implemented during the current funding cycle.  
7 The schedule shall also include a list of the entities and individuals  
8 implementing projects, the start date, duration, estimated date of  
9 completion, estimated cost, and funding sources for the projects.

10 (5) "Limiting factors" means conditions that limit the ability of  
11 habitat to fully sustain populations of salmon. These factors are  
12 primarily fish passage barriers and degraded estuarine areas, riparian  
13 corridors, stream channels, and wetlands.

14 (6) "Project sponsor" is a county, city, special district, tribal  
15 government, a combination of such governments through interlocal  
16 agreements provided under chapter 39.34 RCW, a nonprofit organization,  
17 or one or more private citizens.

18 (7) "Salmon" includes all species of the family Salmonidae which  
19 are capable of self-sustaining, natural production.

20 (8) "Salmon recovery plan" means a state plan developed in response  
21 to a proposed or actual listing under the federal endangered species  
22 act that addresses limiting factors including, but not limited to  
23 harvest, hatchery, hydropower, habitat, and other factors of decline.

24 (9) "Tribe" or "tribes" means federally recognized Indian tribes.

25 (10) "WRIA" means a water resource inventory area established in  
26 chapter 173-500 WAC as it existed on January 1, 1997.

27 (11) "Owner" means the person holding title to the land or the  
28 person under contract with the owner to lease or manage the legal  
29 owner's property.

30 **Sec. 2.** RCW 75.46.050 and 1998 c 246 s 6 are each amended to read  
31 as follows:

32 (1) The governor shall request the national academy of sciences,  
33 the American fisheries society, or a comparable institution to screen  
34 candidates to serve as members on the independent science panel. The  
35 institution that conducts the screening of the candidates shall submit  
36 a list of the nine most qualified candidates to the governor, the  
37 speaker of the house of representatives, and the majority leader of the  
38 senate. The candidates shall reflect expertise in habitat requirements

1 of salmon, protection and restoration of salmon populations, artificial  
2 propagation of salmon, hydrology, or geomorphology.

3 (2) The speaker of the house of representatives and the majority  
4 leader in the senate shall each remove one name from the nomination  
5 list. The governor shall consult with tribal representatives and the  
6 governor shall appoint five scientists from the remaining names on the  
7 nomination list.

8 (3) The members of the independent science panel shall serve four-  
9 year terms. Vacant positions on the panel shall be filled in the same  
10 manner as the original appointments. Members shall serve no more than  
11 two full terms. The independent science panel members shall elect the  
12 chair of the panel among themselves every two years. (~~The members of~~  
13 ~~the independent science panel shall be compensated as provided in RCW~~  
14 ~~43.03.250 and reimbursed for travel expenses in accordance with RCW~~  
15 ~~43.03.050 and 43.03.060.~~) Based upon available funding, the  
16 governor's salmon recovery office may contract for services with  
17 members of the independent science panel for compensation under chapter  
18 39.29 RCW.

19 (4) The independent science panel shall be governed by generally  
20 accepted guidelines and practices governing the activities of  
21 independent science boards such as the national academy of sciences.  
22 The purpose of the independent science panel is to help ensure that  
23 sound science is used in salmon recovery efforts. The governor's  
24 salmon recovery office shall request review of salmon recovery plans by  
25 the science review panel. The science review panel does not have the  
26 authority to review individual projects or project lists developed  
27 under RCW 75.46.060, 75.46.070, and 75.46.080 or to make policy  
28 decisions.

29 (5) The independent science panel shall submit its findings to the  
30 legislature and the governor.

31 **Sec. 3.** RCW 75.46.060 and 1998 c 246 s 7 are each amended to read  
32 as follows:

33 (1)(a) Counties, cities, and tribal governments must jointly  
34 designate, by (~~official resolution~~) letters of support, the area for  
35 which a habitat (~~restoration~~) project list is to be developed and the  
36 lead entity that is to be responsible for submitting the habitat  
37 (~~restoration~~) project list. No project included on a habitat  
38 (~~restoration~~) project list shall be considered mandatory in nature

1 and no private landowner may be forced or coerced into participation in  
2 any respect. The lead entity may be a county, city, conservation  
3 district, special district, tribal government, or other entity.

4 (b) The lead entity shall establish a committee that consists of  
5 representative interests of counties, cities, conservation districts,  
6 tribes, environmental groups, business interests, landowners, citizens,  
7 volunteer groups, regional fish enhancement groups, and other  
8 (~~restoration~~) habitat interests. The purpose of the committee is to  
9 provide a citizen-based evaluation of the projects proposed to promote  
10 salmon habitat (~~restoration~~). The interagency review team may  
11 provide the lead entity with organizational models that may be used in  
12 establishing the committees.

13 (c) The committee shall compile a list of habitat (~~restoration~~)  
14 projects, establish priorities for individual projects, define the  
15 sequence for project implementation, and submit these activities as the  
16 habitat (~~restoration~~) project list. The committee shall also  
17 identify potential federal, state, local, and private funding sources.

18 (2) The area covered by the habitat project list must be based, at  
19 a minimum, on a WRIA, combination of WRIsAs, (~~an evolutionarily~~  
20 ~~significant unit,~~) or any other area as agreed to by the counties,  
21 cities, and tribes in letters of support meeting the requirements of  
22 this subsection. Preference will be given to projects in an area that  
23 contain a salmon species that is listed or proposed for listing under  
24 the federal endangered species act.

25 **Sec. 4.** RCW 75.46.070 and 1998 c 246 s 8 are each amended to read  
26 as follows:

27 (1) Critical pathways methodology shall be used to develop a  
28 habitat project list and a habitat work schedule that ensures salmon  
29 restoration activities will be prioritized and implemented in a logical  
30 sequential manner that produces habitat capable of sustaining healthy  
31 populations of salmon.

32 (2) The critical pathways methodology shall:

33 (a) Include a limiting factors analysis for salmon in streams,  
34 rivers, tributaries, estuaries, and subbasins in the region. The  
35 technical advisory group shall have responsibility for the limiting  
36 factors analysis;

37 (b) Identify local habitat projects that sponsors are willing to  
38 undertake. The projects identified must have a written agreement from

1 the landowner on which the project is to be implemented. Project  
2 sponsors shall have the lead responsibility for this task;

3 (c) Identify how projects will be monitored and evaluated. The  
4 project sponsor, in consultation with the technical advisory group and  
5 the appropriate landowner, shall have responsibility for this task;  
6 (~~and~~)

7 (d) Include a review of monitoring data, evaluate project  
8 performance, and make recommendations to the committee established  
9 under RCW 75.46.060 and to the interagency review team. The technical  
10 advisory group has responsibility for this task; and

11 (e) Describe the adaptive management strategy that will be used.  
12 The committee established under RCW 75.46.060 shall have responsibility  
13 for this task. If a committee has not been formed, the technical  
14 advisory group shall have the responsibility for this task.

15 (3) The habitat work (~~list~~) schedule shall include all projects  
16 developed pursuant to subsection (2) of this section as well as any  
17 other salmon habitat (~~restoration~~) project implemented in the region.  
18 The habitat work (~~list~~) schedule shall also include the start date,  
19 duration, estimated date of completion, estimated cost, and, if  
20 appropriate, the affected salmonid species of each project. Each  
21 schedule shall be updated on an annual basis to depict new activities.

22 **Sec. 5.** RCW 75.46.080 and 1998 c 246 s 9 are each amended to read  
23 as follows:

24 (1) Representatives from the conservation commission, the  
25 department of transportation, the interagency committee on outdoor  
26 recreation, the department of ecology, and the department of fish and  
27 wildlife shall establish an interagency review team. Except as  
28 provided in subsection (6) of this section, habitat (~~restoration~~)  
29 project lists shall be submitted to the interagency review team by  
30 January 1st (~~and July 1st~~) of each year beginning in 1999.

31 (2) If no lead entity has been formed under RCW 75.46.060, the  
32 interagency review team shall rank, prioritize, and dispense funds for  
33 habitat (~~restoration~~) projects by giving preference to the projects  
34 that:

35 (a) Are based upon the limiting factors analysis identified under  
36 RCW 75.46.070;

1        (b) Provide a greater benefit to salmon recovery based upon the  
2 information contained in the department of fish and wildlife salmonid  
3 stock inventory or a comparable science-based assessment;

4        ~~((b))~~ (c) Will be implemented in a more critical area based upon  
5 the stock status information contained in the department of fish and  
6 wildlife salmonid stock inventory or a comparable science-based  
7 assessment;

8        ~~((e))~~ (d) Are the most cost-effective;

9        ~~((d))~~ (e) Have the greatest matched, or in-kind funding; and

10       ~~((e))~~ (f) Will be implemented by a sponsor with a successful  
11 record of project implementation.

12       (3) If a lead entity established under RCW 75.46.060 has been  
13 formed, the interagency review team shall evaluate the habitat project  
14 list~~((s—and))~~ for funding based upon the criteria contained in  
15 subsection (2) of this section. The interagency review team may  
16 remove, but not add, projects from a habitat project list. The  
17 interagency review team shall give preference to projects that are on  
18 a project list submitted by a lead entity. The interagency review team  
19 may also provide block grants to the lead entity subject to available  
20 funding.

21       (4) The interagency review team shall provide a summary of funding  
22 for ~~((habitat))~~ restoration project lists to the governor and to the  
23 legislature by December 1st of each year.

24       (5) The interagency review team may annually establish a maximum  
25 amount of funding available for any individual project, subject to  
26 available funding. The interagency review team shall attempt to assure  
27 a geographical balance in assigning priorities to projects.

28       (6) For fiscal year 1998, the department of fish and wildlife, the  
29 conservation commission, and the department of transportation may  
30 authorize, subject to appropriations, expenditures for projects that  
31 have been developed to restore salmon habitat before completion of the  
32 project lists required in RCW 75.46.060(2).

33       ~~((7) Where a lead entity has been established pursuant to RCW~~  
34 ~~75.46.060, the interagency review team may provide block grants to the~~  
35 ~~lead entity, subject to available funding.))~~

36       **Sec. 6.** RCW 75.46.100 and 1998 c 246 s 11 are each amended to read  
37 as follows:

1       The sea grant program at the University of Washington is authorized  
2 to provide technical assistance to volunteer groups and other project  
3 sponsors in designing and ~~((performing))~~ implementing habitat  
4 ~~((restoration))~~ projects that address the limiting factors analysis  
5 ~~((of regional habitat work plans))~~ required under RCW 75.46.070. The  
6 cost for such assistance may be covered on a fee-for-service basis.

7       **Sec. 7.** RCW 75.46.130 and 1998 c 246 s 17 are each amended to read  
8 as follows:

9       Only those funds appropriated for the habitat ~~((restoration))~~  
10 projects under this chapter are subject to the requirements of RCW  
11 75.46.080.

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