
SENATE BILL 5935

State of Washington

56th Legislature

1999 Regular Session

By Senators Jacobsen, Oke, Snyder, McDonald, Spanel, Swecker, Sellar, Morton, Hale, T. Sheldon, Rasmussen, Winsley and Stevens

Read first time 02/16/1999. Referred to Committee on Natural Resources, Parks & Recreation.

1 AN ACT Relating to the recovery of salmon; amending RCW 79.01.2951
2 and 79.01.2955; adding a new chapter to Title 75 RCW; and declaring an
3 emergency.

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

5 NEW SECTION. **Sec. 1.** It is the intent of the legislature:

6 (1) That the managing task force establish and direct a process
7 that will provide the best reasonable and necessary habitat along
8 salmon bearing streams. It will provide a process that will protect
9 those streams from undesirable sediments and other harmful substances
10 coming from the land as a direct use of the land;

11 (2) That the coordinated resource management standards created
12 under RCW 79.01.295 should be used to complete agreements concerning
13 land uses under this act;

14 (3) That only ongoing governmental processes be utilized to
15 accomplish the purposes of this chapter, including statutorily
16 authorizing watershed enhancement groups and voluntary salmon
17 enhancement groups;

1 (4) That there is established a broad-based task force of citizens
2 affected by this chapter to coordinate the implementation of this
3 section while depending on agency and tribal expertise;

4 (5) That there be full cooperation with tribal government and
5 nontribal commercial fisheries representatives in order to allow them
6 to meet their harvest needs from hatchery salmon while each works with
7 the state on how to ensure that endangered wild salmon stocks have
8 total escapement opportunity until there are adequate wild salmon;

9 (6) That a neutral and unbiased process established by the task
10 force be utilized to inspect all pertinent harvesting activities and
11 report back to the legislature concerning compliance with the
12 provisions of this section;

13 (7) That the task force be fully accountable to the legislature and
14 the governor as to the progress and success of the implementation of
15 this chapter;

16 (8) That legislative policy and directives on salmon habitat and
17 related water quality programs provide productive solutions;

18 (9) That prior to implementing other efforts, the state,
19 cooperating with landowners, must ensure the control and management of
20 surplus runoff water to provide more and cleaner water for fish while
21 avoiding environmental damage;

22 (10) That there be legislative directives to put a salmon harvest
23 and escapement program in place at the earliest possible time;

24 (11) That a state salmon recovery plan be put in place at the
25 earliest possible time to meet the requirements of the federal
26 endangered species act and the federal clean water act especially in
27 regards to the portion of federal law addressed by this act;

28 (12) That fish predation is a major obstacle to salmon recovery and
29 this problem must be satisfactorily addressed to obtain the necessary
30 cooperation needed to put a successful salmon recovery program in
31 place;

32 (13) That the principles that guide this act are (a) to utilize, to
33 the fullest extent possible, ongoing procedures such as conservation
34 district development of land use plans with an added element of agreed
35 upon implementation assurance and a monitoring process to obtain
36 compliance; (b) additional involvement with state and federal agencies
37 plus tribal input to the fullest extent possible; and (c) to bring
38 about salmon habitat and water quality conditions considered adequate
39 to restore salmon, utilizing a cooperative process with the landowner

1 that establishes agreed upon proper land use that is compatible with
2 salmon recovery efforts; and

3 (14) That a priority to be followed is to minimize land purchases
4 and land rentals by the government and to minimize compensation while
5 maximizing land use agreements and using available funds to support
6 programs and processes that bring about salmon recovery in the most
7 effective, efficient, cooperative manner with landowners.

8 NEW SECTION. **Sec. 2.** The legislature establishes the following
9 requirements, guidelines, priorities, timelines, targets, and
10 accountability for salmon habitat and water quality process programs to
11 be developed and implemented as described in this act:

12 (1) Institute a coordinated program that landowners and other
13 affected persons will comfortably participate in;

14 (2) Place top priority on addressing instream spawning conditions
15 first where water is adequate for spawning;

16 (3) Provide more and cleaner water by controlling excess runoff
17 with many small retain and release structures;

18 (4) Have instream and streambank salmon spawning projects in one
19 quarter of the appropriate tributary streams each year for four years;

20 (5) After four years, have an action-oriented program that will
21 meet the necessary requirements of federal laws, such as the endangered
22 species act and the clean water act;

23 (6) Create a proper citizen's body responsible for reviewing,
24 monitoring, and reporting to the legislature, the governor's office,
25 and the news media.

26 NEW SECTION. **Sec. 3.** The definitions in this section apply
27 throughout this chapter unless the context clearly requires otherwise.

28 (1) "Owner" means the legal owner, lessor-operator of property and
29 municipalities.

30 (2) "Task force" means the managing task force created in section
31 4 of this act.

32 NEW SECTION. **Sec. 4.** (1) A managing task force is created to
33 oversee the implementation of this act as well as monitor and report
34 progress to the legislature and governor at regular and reasonable
35 intervals.

1 (2) The task force is authorized to select a director and
2 secretarial personnel to fulfill the members' needs to carry out the
3 intent of this act.

4 (3) Ten regular members shall be appointed by the legislature,
5 shared equally between the majority leader and minority leaders in the
6 senate and the co-speakers of the house of representatives, and two
7 members appointed by the governor with state agencies as nonvoting ex
8 officio members. Tribes will be asked to place four regular members,
9 one each from four different regions of the state.

10 (4) Members appointed to fill the indicated number of positions
11 shall come from nominees offered from commercial fisheries, one
12 recreational fishery, one city government, one county government, one
13 directly affected business, one small landowner from the west side of
14 the state, one agriculture from irrigated, nonirrigated, livestock from
15 eastern Washington, three, agriculture from western Washington, two.

16 The governor will appoint two regular members at large, one from
17 eastern Washington and one from the governor's salmon recovery office.

18 Ex officio agency members shall come from the departments of fish
19 and wildlife, ecology, agriculture, as well as the conservation
20 commission, and the association of conservation districts.

21 Regular members will serve on a part-time basis.

22 (5) Chairs, co-chairs, and ranking members of the natural
23 resources, environmental quality and water resources, and agriculture
24 and rural economic development committees in the house of
25 representatives and senate will be nonvoting ex officio members of the
26 task force. Directors or their designees from the departments of fish
27 and wildlife, ecology, agriculture, the conservation commission,
28 conservation districts, the governor's office, and Washington State
29 University will each serve on the task force as nonvoting ex officio
30 members.

31 NEW SECTION. **Sec. 5.** The duties and responsibilities of the task
32 force are to:

33 (1) Elect a chair and vice-chair from the regular membership each
34 biennium;

35 (2) Oversee the implementation of this act;

36 (3) Monitor all activities covered in this act;

37 (4) Report the progress quarterly to the natural resources
38 committees of each house of the legislature and the governor;

1 (5) Employ a director and other necessary staff to serve at the
2 discretion of the task force in a manner chosen by the task force;

3 (6) Adopt a plan of action at the earliest possible time after the
4 effective date of this section, following consultation with appropriate
5 persons in the legislature; and

6 (7) The task force is responsible for the accountability factor,
7 collecting all possible information concerning how this act and other
8 salmon recovery efforts are progressing, including but not limited to
9 harvest, hatchery, and predator review processes.

10 NEW SECTION. **Sec. 6.** The three elements of habitat, harvest, and
11 hatchery programs shall be developed in unison, and be dependent on
12 each other as to when the habitat portion will be implemented.

13 NEW SECTION. **Sec. 7.** All private lands involved in salmon habitat
14 improvement programs shall be managed in a manner that provides
15 reasonable and necessary habitat improvements for salmon and also
16 provides reasonable economic use by the owner so that very little
17 compensation is required.

18 NEW SECTION. **Sec. 8.** The governor's salmon office is authorized
19 to negotiate with federal agencies to accomplish the goal of meeting
20 the requirements of the federal clean water act and the federal
21 endangered species act. The legislature must ratify the final
22 agreement.

23 NEW SECTION. **Sec. 9.** (1) For the purposes of this act, the
24 governor's office will be the sole coordinator during the process of
25 formulating any cooperative arrangements between the tribes and the
26 task force. After the governor's office has communicated and
27 cooperated with the tribes, the results will be reported to the task
28 force by the tribes.

29 (2) Whenever the task force activities or expected results relate
30 directly to the objective of bringing about a state salmon recovery
31 plan that complies with the federal endangered species act and the
32 clean water act, the governor's office will be the sole coordinator
33 with federal agencies. The governor's office must report results of
34 their communications and recommendations to the task force.

1 (3) The task force will make every possible effort to alert the
2 governor's office at the earliest possible time of activities relating
3 to the federal agencies and also move in a positive manner to
4 incorporate the federal agencies' recommendations that relate directly
5 to the task force's legislatively directed responsibilities.

6 (4) All meetings held by the governor's office that concern this
7 act are open to the public.

8 NEW SECTION. **Sec. 10.** (1) Additional funds will be provided for
9 the following agencies in order to allow its staff to participate in
10 the field application of this act: The department of ecology, the
11 department of agriculture, the department of fish and wildlife, and the
12 conservation commission.

13 (2) Federal agencies should participate as ex officio members of or
14 advisors to the task force at their discretion.

15 NEW SECTION. **Sec. 11.** (1) Each federally recognized tribe is
16 invited to participate in the implementation of this act.

17 (2) There is no intent that tribal lands within the boundaries of
18 a reservation be included in the implementation of this act, unless
19 requested by that tribe, or classified timber lands of more than twenty
20 acres under one ownership.

21 NEW SECTION. **Sec. 12.** Every possible effort must be made to
22 attract private property owners and affected businesses and
23 municipalities to participate in this voluntary program.

24 NEW SECTION. **Sec. 13.** (1) A coordinated resource management
25 planning process, with standards established under RCW 79.01.295 and
26 79.01.2951, is a tool that must be fully utilized as part of obtaining
27 the goals of this act.

28 (2) For the purposes of accomplishing the intent of section 1 of
29 this act, when land use is under consideration, the coordinated
30 resource management planning process, RCW 79.01.295 and 79.01.2951
31 should be used whenever possible.

32 **Sec. 14.** RCW 79.01.2951 and 1996 c 163 s 2 are each amended to
33 read as follows:

1 The legislature finds that many wild stocks of salmonids in the
2 state of Washington are in a state of decline. Stocks of salmon on the
3 Columbia and Snake rivers have been listed under the federal endangered
4 species act, and the bull trout has been petitioned for listing. Some
5 scientists believe that numerous other stocks of salmonids in the
6 Pacific Northwest are in decline or possibly extinct. The legislature
7 declares that to lose wild stocks is detrimental to the genetic
8 diversity of the fisheries resource and the economy, and will represent
9 the loss of a vital component of Washington's aquatic ecosystems. The
10 legislature further finds that there is a continuing loss of habitat
11 for fish and wildlife. The legislature declares that steps must be
12 taken in the areas of wildlife and fish habitat management, water
13 conservation, wild salmonid stock protection, and education to prevent
14 further losses of Washington's fish and wildlife heritage from a number
15 of causes including urban and rural subdivisions, shopping centers,
16 industrial park, and other land use activities.

17 The legislature finds that the maintenance and restoration of
18 Washington's rangelands (~~(and)~~), shrub-steppe vegetation, and privately
19 owned agricultural and other private land is vital to the long-term
20 benefit of the people of the state. The legislature finds that
21 approximately one-fourth of the state is open range or open-canopied
22 grazable woodland. The legislature finds that these lands provide
23 forage for livestock, habitat for wildlife, and innumerable
24 recreational opportunities including hunting, hiking, and fishing.

25 The legislature finds that the development of coordinated resource
26 management plans, that take into consideration the needs of wildlife,
27 fish, livestock, timber production, water quality protection, and
28 rangeland conservation on all state-owned grazing lands and privately
29 owned lands will improve the stewardship of these lands and allow for
30 the increased development and maintenance of fish and wildlife habitat
31 and other multipurpose benefits the public derives from these lands.

32 The legislature finds that the state currently provides
33 insufficient technical support for coordinated resource management
34 plans to be developed for all state-owned lands and for many of the
35 private lands desiring to develop such plans. As a consequence of this
36 lack of technical assistance, our state grazing and other lands,
37 including fish and wildlife habitat and other resources provided by
38 these lands, are not achieving their potential. The legislature also
39 finds that with many state lands being intermixed with private grazing

1 lands, development of coordinated resource management plans on state-
2 owned and managed lands provides an opportunity to improve the
3 management and enhance the conditions of adjacent private lands.

4 A purpose of chapter 4, Laws of 1993 sp. sess. is to establish
5 state grazing lands as the model in the state for the development and
6 implementation of standards that can be used in coordinated resource
7 management plans and to thereby assist the timely development of
8 coordinated resource management plans for all state-owned grazing lands
9 and privately owned lands. Every lessee of state lands who wishes to
10 participate in the development and implementation of a coordinated
11 resource management plan shall have the opportunity to do so.

12 **Sec. 15.** RCW 79.01.2955 and 1996 c 163 s 1 are each amended to
13 read as follows:

14 (1) It is the purpose of chapter 163, Laws of 1996 that all state
15 agricultural lands, grazing lands, and grazable woodlands shall be
16 managed in keeping with the statutory and constitutional mandates under
17 which each agency operates. Chapter 163, Laws of 1996 is consistent
18 with section 1, chapter 4, Laws of 1993 sp. sess.

19 (2) The ecosystem standards developed under chapter 4, Laws of 1993
20 sp. sess. for state-owned agricultural ~~((and))~~, grazing, privately
21 owned, and other lands are defined as desired ecological conditions.
22 The standards are not intended to prescribe practices. For this
23 reason, land managers are encouraged to use an adaptive management
24 approach in selecting and implementing practices that work towards
25 meeting the standards based on the best available science and
26 evaluation tools.

27 (3) For as long as the chapter 4, Laws of 1993 sp. sess. ecosystem
28 standards remain in effect, they shall be applied through a
29 collaborative process that incorporates the following principles:

30 (a) The ~~((land manager and lessee or permittee))~~ landowners and
31 appropriate agencies shall look at the land together and make every
32 effort to reach agreement on management and resource objectives for the
33 land under consideration;

34 (b) They will then discuss management options and make every effort
35 to reach agreement on which of the available options will be used to
36 achieve the agreed-upon objectives;

37 (c) No land manager or owner ever gives up his or her management
38 prerogative;

1 (d) Efforts will be made to make land management plans economically
2 feasible for landowners, managers, and lessees and to make the land
3 management plan compatible with the (~~lessee's~~) owner's entire
4 operation;

5 (e) Coordinated resource management planning is encouraged where
6 either multiple ownerships, or management practices, or both, are
7 involved;

8 (f) The department of fish and wildlife shall consider multiple
9 use, including grazing, on lands owned or managed by the department of
10 fish and wildlife where it is compatible with the management objectives
11 of the land; and

12 (g) The department of natural resources shall allow multiple use on
13 lands owned or managed by the department of natural resources where
14 multiple use can be demonstrated to be compatible with RCW 79.68.010,
15 79.68.020, and 79.68.050.

16 (4) The ecosystem standards are to be achieved by applying
17 appropriate land management practices on riparian lands and on the
18 uplands in order to reach the desired ecological conditions.

19 (5) The legislature urges that state agencies that manage grazing
20 lands make planning and implementation of chapter 163, Laws of 1996,
21 using the coordinated resource management and planning process, a high
22 priority, especially where either multiple ownerships, or multiple use
23 resources objectives, or both, are involved. In all cases, the choice
24 of using the coordinated resource management planning process will be
25 a voluntary decision by all concerned parties including agencies,
26 private landowners, lessees, permittees, and other interests.

27 NEW SECTION. **Sec. 16.** This act does not apply to timber land
28 units of more than twenty acres each.

29 NEW SECTION. **Sec. 17.** During the implementation of this act,
30 sections 1 and 4 of this act must be recognized as the guide for the
31 remainder of this act.

32 NEW SECTION. **Sec. 18.** A state general fund bond is the method
33 preferred for funding of salmon recovery projects.

34 NEW SECTION. **Sec. 19.** Conservation links, being the critical link
35 between the people and governmental agencies, have a statutory role in

1 a broad spectrum of activities with the public and landowners that
2 relate to clean, abundant water through proper land use and other local
3 projects. State and federal funding is vital for their work.
4 Conservation districts are to be the coordinators of the coordinated
5 resource management planning process, created in RCW 79.01.295 and
6 79.01.2951, with state funds being provided to personnel in each
7 district through the conservation commission, as recommended by the
8 task force.

9 NEW SECTION. **Sec. 20.** During the implementation of the this act:

10 (1) The utmost flexibility possible is desirable when habitat
11 improvement programs are being implemented on private land.

12 (2) When a reasonable portion of a potential salmon bearing stream
13 has been reinhabited, that stream should be considered as qualified.

14 (3) Volunteer group activities to reclaim or enhance salmon
15 populations shall be a high priority for assistance and funding.

16 (4) Salmon habitat improvement projects on smaller tributaries
17 shall receive exemptions from normally required permitting by state
18 agencies.

19 (5) The department of fish and wildlife shall place a high priority
20 on assisting local efforts when incubators are requested.

21 (6) During the establishment of buffer zones and riparian area
22 uses, special emphasis will be placed on the multiple use concept while
23 adequately enhancing salmon recovery.

24 NEW SECTION. **Sec. 21.** Sections 1 through 13 and 16 through 20 of
25 this act constitute a new chapter in Title 75 RCW.

26 NEW SECTION. **Sec. 22.** If any provision of this act or its
27 application to any person or circumstance is held invalid, the
28 remainder of the act or the application of the provision to other
29 persons or circumstances is not affected.

30 NEW SECTION. **Sec. 23.** This act is necessary for the immediate
31 preservation of the public peace, health, or safety, or support of the
32 state government and its existing public institutions, and takes effect
33 immediately.

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