

**2SHB 1336 - H AMD 258**

By Representative Linville

ADOPTED 03/18/2003

1 Strike everything after the enacting clause and insert the  
2 following:

3 **"IMPLEMENTATION OF WATERSHED PLANS**

4 NEW SECTION. **Sec. 1.** The legislature declares and reaffirms that  
5 a core principle embodied in chapter 90.82 RCW is that state agencies  
6 must work cooperatively with local citizens in a process of planning  
7 for future uses of water by giving local citizens and the governments  
8 closest to them the ability to determine the management of water in the  
9 WRIA or WRIsAs being planned.

10 The legislature further finds that this process of local planning  
11 must have all the tools necessary to accomplish this task and that it  
12 is essential for the legislature to provide a clear statutory process  
13 for implementation so that the locally developed plan will be the  
14 adopted and implemented plan to the greatest extent possible.

15 **Sec. 2.** RCW 90.82.040 and 2001 c 237 s 2 are each amended to read  
16 as follows:

17 (1) Once a WRIA planning unit has been initiated under RCW  
18 90.82.060 and a lead agency has been designated, it shall notify the  
19 department and may apply to the department for funding assistance for  
20 conducting the planning and providing coordination and oversight of the  
21 implementation of the plan. Funds shall be provided from and to the  
22 extent of appropriations made by the legislature to the department  
23 expressly for this purpose.

24 (2)(a) Each planning unit that has complied with subsection (1) of  
25 this section is eligible to receive watershed planning grants in the  
26 following amounts for the first three phases of watershed planning and  
27 phase four watershed plan implementation coordination and oversight:

1 (i) Initiating governments may apply for an initial organizing  
2 grant of up to fifty thousand dollars for a single WRIA or up to  
3 seventy-five thousand dollars for a multi-WRIA management area in  
4 accordance with RCW 90.82.060(4);

5 (ii)(A) A planning unit may apply for up to two hundred thousand  
6 dollars for each WRIA in the management area for conducting watershed  
7 assessments in accordance with RCW 90.82.070, except that a planning  
8 unit that chooses to conduct a detailed assessment or studies under  
9 (a)(ii)(B) of this subsection or whose initiating governments choose or  
10 have chosen to include an instream flow or water quality component in  
11 accordance with RCW 90.82.080 or 90.82.090 may apply for up to one  
12 hundred thousand additional dollars for each instream flow and up to  
13 one hundred thousand additional dollars for each water quality  
14 component included for each WRIA to conduct an assessment on that  
15 optional component and for each WRIA in which the assessments or  
16 studies under (a)(ii)(B) of this subsection are conducted.

17 (B) A planning unit may elect to apply for up to one hundred  
18 thousand additional dollars to conduct a detailed assessment of  
19 multipurpose water storage opportunities or for studies of specific  
20 multipurpose storage projects which opportunities or projects are  
21 consistent with and support the other elements of the planning unit's  
22 watershed plan developed under this chapter; and

23 (iii) A planning unit may apply for up to two hundred fifty  
24 thousand dollars for each WRIA in the management area for developing a  
25 watershed plan and making recommendations for actions by local, state,  
26 and federal agencies, tribes, private property owners, private  
27 organizations, and individual citizens, including a recommended list of  
28 strategies and projects that would further the purpose of the plan in  
29 accordance with RCW 90.82.060 through 90.82.100.

30 (b) A planning unit may request a different amount for phase two or  
31 phase three of watershed planning than is specified in (a) of this  
32 subsection, provided that the total amount of funds awarded do not  
33 exceed the maximum amount the planning unit is eligible for under (a)  
34 of this subsection. The department shall approve such an alternative  
35 allocation of funds if the planning unit identifies how the proposed  
36 alternative will meet the goals of this chapter and provides a proposed  
37 timeline for the completion of planning. However, the up to one  
38 hundred thousand additional dollars in funding for instream flow and

1 water quality components and for water storage assessments or studies  
2 that a planning unit may apply for under (a)(ii)(A) of this subsection  
3 may be used only for those instream flow, water quality, and water  
4 storage purposes.

5 (c) By December 1, 2001, or within one year of initiating phase one  
6 of watershed planning, whichever occurs later, the initiating  
7 governments for each planning unit must inform the department whether  
8 they intend to have the planning unit establish or amend instream flows  
9 as part of its planning process. If they elect to have the planning  
10 unit establish or amend instream flows, the planning unit is eligible  
11 to receive one hundred thousand dollars for that purpose in accordance  
12 with (a)(ii) of this subsection. If the initiating governments for a  
13 planning unit elect not to establish or amend instream flows as part of  
14 the unit's planning process, the department shall retain one hundred  
15 thousand dollars to carry out an assessment to support establishment of  
16 instream flows and to establish such flows in accordance with RCW  
17 90.54.020(3)(a) and chapter 90.22 RCW. The department shall not use  
18 these funds to amend an existing instream flow unless requested to do  
19 so by the initiating governments for a planning unit.

20 (d) In administering funds appropriated for supplemental funding  
21 for optional plan components under (a)(ii) of this subsection, the  
22 department shall give priority in granting the available funds to  
23 proposals for setting or amending instream flows.

24 (e) A planning unit may apply for a matching grant for phase four  
25 coordination and oversight of watershed plan implementation. A match  
26 of ten to twenty-five percent is required and may include financial  
27 contributions or in-kind goods and services directly related to  
28 coordination and oversight functions. The match can be provided by the  
29 planning unit or by the combined commitments from federal agencies,  
30 tribal governments, local governments, special districts, or other  
31 local organizations. The phase four grant may be up to one hundred  
32 thousand dollars for each planning unit for each of the first three  
33 years of implementation. At the end of the three-year period, a two-  
34 year extension may be available for up to fifty thousand dollars each  
35 year. For planning units that cover more than one WRIA, additional  
36 matching funds of up to twenty-five thousand dollars may be available  
37 for each additional WRIA per year for the first three years of

1 implementation, and up to twelve thousand five hundred dollars per WRIA  
2 per year for each of the fourth and fifth years.

3 (3)(a) The department shall use the eligibility criteria in this  
4 subsection (3) instead of rules, policies, or guidelines when  
5 evaluating grant applications at each stage of the grants program.

6 (b) In reviewing grant applications under this subsection (3), the  
7 department shall evaluate whether:

8 (i) The planning unit meets all of the requirements of this  
9 chapter;

10 (ii) The application demonstrates a need for state planning funds  
11 to accomplish the objectives of the planning process; and

12 (iii) The application and supporting information evidences a  
13 readiness to proceed.

14 (c) In ranking grant applications submitted at each stage of the  
15 grants program, the department shall give preference to applications in  
16 the following order of priority:

17 (i) Applications from existing planning groups that have been in  
18 existence for at least one year;

19 (ii) Applications that address protection and enhancement of fish  
20 habitat in watersheds that have aquatic fish species listed or proposed  
21 to be listed as endangered or threatened under the federal endangered  
22 species act, 16 U.S.C. Sec. 1531 et seq. and for which there is  
23 evidence of an inability to supply adequate water for population and  
24 economic growth from:

25 (A) First, multi-WRIA planning; and

26 (B) Second, single WRIA planning;

27 (iii) Applications that address protection and enhancement of fish  
28 habitat in watersheds or for which there is evidence of an inability to  
29 supply adequate water for population and economic growth from:

30 (A) First, multi-WRIA planning; and

31 (B) Second, single WRIA planning.

32 (d) Except for phase four watershed plan implementation, the  
33 department may not impose any local matching fund requirement as a  
34 condition for grant eligibility or as a preference for receiving a  
35 grant.

36 (4) The department may retain up to one percent of funds allocated  
37 under this section to defray administrative costs.

1 (5) Planning under this chapter should be completed as  
2 expeditiously as possible, with the focus being on local stakeholders  
3 cooperating to meet local needs.

4 (6) Funding provided under this section shall be considered a  
5 contractual obligation against the moneys appropriated for this  
6 purpose.

7 **Sec. 3.** RCW 90.82.130 and 2001 c 237 s 4 are each amended to read  
8 as follows:

9 (1)(a) Upon completing its proposed watershed plan, the planning  
10 unit may approve the proposal by consensus of all of the members of the  
11 planning unit or by consensus among the members of the planning unit  
12 appointed to represent units of government and a majority vote of the  
13 nongovernmental members of the planning unit.

14 (b) If the proposal is approved by the planning unit, the unit  
15 shall submit the proposal to the counties with territory within the  
16 management area. If the planning unit has received funding beyond the  
17 initial organizing grant under RCW 90.82.040, such a proposal approved  
18 by the planning unit shall be submitted to the counties within four  
19 years of the date that funds beyond the initial funding are first drawn  
20 upon by the planning unit.

21 (c) If the watershed plan is not approved by the planning unit, the  
22 planning unit may submit the components of the plan for which agreement  
23 is achieved using the procedure under (a) of this subsection, or the  
24 planning unit may terminate the planning process.

25 (2)(a) With the exception of a county legislative authority that  
26 chooses to opt out of watershed planning as provided in (c) of this  
27 subsection, the legislative authority of each of the counties with  
28 territory in the management area shall provide public notice of and  
29 conduct at least one public hearing on the proposed watershed plan  
30 submitted under this section. After the public hearings, the  
31 legislative authorities of these counties shall convene in joint  
32 session to consider the proposal. The counties may approve or reject  
33 the proposed watershed plan for the management area, but may not amend  
34 it. Approval of such a proposal shall be made by a majority vote of  
35 the members of each of the counties with territory in the management  
36 area.

1 (b) If a proposed watershed plan is not approved, it shall be  
2 returned to the planning unit with recommendations for revisions.  
3 Approval of such a revised proposal by the planning unit and the  
4 counties shall be made in the same manner provided for the original  
5 watershed plan. If approval of the revised plan is not achieved, the  
6 process shall terminate.

7 (c) A legislative authority of a county with less than five percent  
8 of affected territory within a particular management area may choose to  
9 opt out of watershed planning under this chapter and the public hearing  
10 processes under (a) and (b) of this subsection, with regard to that  
11 legislative authority's affected territory within a particular  
12 management area. A county choosing to opt out shall notify the  
13 department and the other initiating governments of that choice prior to  
14 commencement of plan adoption under the provisions of (a) of this  
15 subsection. A county choosing to opt out shall not be bound by  
16 obligations contained in the watershed plan adopted for that management  
17 area under this chapter. Even if a county chooses to opt out as  
18 provided in this section, the other counties within a management area  
19 may adopt a proposed watershed plan as provided in this chapter.

20 (3) The planning unit shall not add an element to its watershed  
21 plan that creates an obligation unless each of the governments to be  
22 obligated has at least one representative on the planning unit and the  
23 respective members appointed to represent those governments agree to  
24 adding the element that creates the obligation. A member's agreeing to  
25 add an element shall be evidenced by a recorded vote of all members of  
26 the planning unit in which the members record support for adding the  
27 element. If the watershed plan is approved under subsections (1) and  
28 (2) of this section and the plan creates obligations: (a) For agencies  
29 of state government, the agencies shall adopt by policy, procedures,  
30 agreements, or rules the obligations of both state and county  
31 governments and procedures or rules implementing the state obligations,  
32 the obligations on state agencies are binding upon adoption of the  
33 obligations (~~into rule~~), and the agencies shall take other actions to  
34 fulfill their obligations as soon as possible, and should annually  
35 review implementation needs with respect to budget and staffing; (~~or~~)  
36 (b) for counties, the obligations are binding on the counties and the  
37 counties shall adopt any necessary implementing ordinances and take  
38 other actions to fulfill their obligations as soon as possible, and

1 should annually review implementation needs with respect to budget and  
2 staffing; or (c) for an organization voluntarily accepting an  
3 obligation, the organization must adopt policies, procedures,  
4 agreements, rules, or ordinances to implement the plan, and should  
5 annually review implementation needs with respect to budget and  
6 staffing.

7 (4) As used in this section, "obligation" means any action required  
8 as a result of this chapter that imposes upon a tribal government,  
9 county government, or state government, either: A fiscal impact; a  
10 redeployment of resources; or a change of existing policy.

11 (5) After a plan is approved under subsection (2)(a) of this  
12 section and if the department participated in the planning process, the  
13 department shall rely on such a plan as the framework for making water  
14 resource and water quality decisions in the watershed. The department  
15 shall also rely upon the plan as a primary consideration in determining  
16 the public interest related to those decisions.

17 (6) Once a plan is approved under subsection (2)(a) of this  
18 section, the department may adopt rules under RCW 90.54.040(1) to  
19 modify the plan through a negotiated rule-making process under RCW  
20 34.05.310(2)(a) and shall adopt rules implementing its obligations  
21 imposed by the plan or modified plan through such a negotiated rule-  
22 making process. The department may not modify the plan in any other  
23 manner or under any other authority. The entities to be included in  
24 the negotiated rule making as affected interests must include, but are  
25 not limited to: Water right holders and other affected residents in a  
26 watershed or watersheds; and, to the greatest extent practicable, the  
27 members of the original planning unit for the watershed or watersheds.

28 NEW SECTION. Sec. 4. A new section is added to chapter 90.82 RCW  
29 to read as follows:

30 (1) Upon approval of the watershed plan, the role of the planning  
31 unit is to provide coordination and oversight during the implementation  
32 of the plan. This may include a number of interrelated activities,  
33 such as seeking funding; tracking progress towards implementation  
34 milestones; making adjustments to respond to new information and  
35 changing conditions; coordinating the many implementation actions being  
36 performed by different organizations in the watershed; and responding  
37 to local needs and concerns as expressed by elected officials,

1 stakeholders, and the public. Supporting activities also include  
2 public outreach and education; long-term monitoring activities and  
3 associated research; data management; and program evaluation.

4 (2) Within one year of accepting funding for plan coordination and  
5 oversight, the planning unit must complete a detailed implementation  
6 plan. An implementation plan must clearly define coordination and  
7 oversight responsibilities; any needed interlocal agreements, rules, or  
8 ordinances; specific funding mechanisms; timelines for carrying out the  
9 actions included in the plan; and an adaptive management strategy for  
10 plan amendments. The implementation plan must include coordination of  
11 salmon recovery projects with lead entities working under chapter 246,  
12 Laws of 1998. Submittal of a detailed implementation plan to the  
13 department is a condition for receiving grants for the second and all  
14 subsequent years of the phase four grant.

15 NEW SECTION. **Sec. 5.** A new section is added to chapter 90.82 RCW  
16 to read as follows:

17 (1) Each plan developed under this chapter must contain strategies  
18 for achieving the following water resource objectives:

- 19 (a) Providing sufficient water for productive agriculture;  
20 (b) Providing sufficient water for commercial, industrial, and  
21 residential use; and  
22 (c) Providing sufficient water for instream flows.

23 (2) Such a plan must include timelines for achieving these three  
24 objectives and interim milestones for measuring progress in achieving  
25 the objectives. Such a plan must also identify the state and local  
26 administrative approvals and permits that must be secured to achieve  
27 these objectives.

28 (3) The strategies developed under this chapter to satisfy these  
29 objectives must include, but are not limited to, the identification of:

- 30 (a) How the objectives are to be achieved;  
31 (b) Timelines for achieving these objectives;  
32 (c) How progress is to be measured for achieving the objectives and  
33 interim milestones for measuring that progress;  
34 (d) How any limiting factors regarding stream flows or water supply  
35 that have been identified for salmon in analyses under RCW 77.85.060  
36 are to be overcome;

1 (e) How progress in overcoming these limiting factors is to be  
2 measured and interim milestones for measuring that progress; and

3 (f) How the strategies developed under this section are to be  
4 coordinated with the activities and habitat project lists of lead  
5 entities and committees conducted and developed under RCW 77.85.050.

6 **Sec. 6.** RCW 90.82.060 and 2001 c 229 s 1 are each amended to read  
7 as follows:

8 (1) Planning conducted under this chapter must provide for a  
9 process to allow the local citizens within a WRIA or multi-WRIA area to  
10 join together in an effort to: (a) Assess the status of the water  
11 resources of their WRIA or multi-WRIA area; and (b) determine how best  
12 to manage the water resources of the WRIA or multi-WRIA area to balance  
13 the competing resource demands for that area within the parameters  
14 under RCW 90.82.120.

15 (2) Watershed planning under this chapter may be initiated for a  
16 WRIA only with the concurrence of: (a) All counties within the WRIA;  
17 (b) the largest city or town within the WRIA unless the WRIA does not  
18 contain a city or town; and (c) the water supply utility obtaining the  
19 largest quantity of water from the WRIA or, for a WRIA with lands  
20 within the Columbia Basin project, the water supply utility obtaining  
21 from the Columbia Basin project the largest quantity of water for the  
22 WRIA. To apply for a grant for organizing the planning unit as  
23 provided for under RCW 90.82.040(2)(a), these entities shall designate  
24 the entity that will serve as the lead agency for the planning effort  
25 and indicate how the planning unit will be staffed.

26 (3) Watershed planning under this chapter may be initiated for a  
27 multi-WRIA area only with the concurrence of: (a) All counties within  
28 the multi-WRIA area; (b) the largest city or town in each WRIA unless  
29 the WRIA does not contain a city or town; and (c) the water supply  
30 utility obtaining the largest quantity of water in each WRIA.

31 (4) If entities in subsection (2) or (3) of this section decide  
32 jointly and unanimously to proceed, they shall invite all tribes with  
33 reservation lands within the management area.

34 (5) The entities in subsection (2) or (3) of this section,  
35 including the tribes if they affirmatively accept the invitation,  
36 constitute the initiating governments for the purposes of this section.

1 (6) The organizing grant shall be used to organize the planning  
2 unit and to determine the scope of the planning to be conducted. In  
3 determining the scope of the planning activities, consideration shall  
4 be given to all existing plans and related planning activities. The  
5 scope of planning must include water quantity elements as provided in  
6 RCW 90.82.070, and may include water quality elements as contained in  
7 RCW 90.82.090, habitat elements as contained in RCW 90.82.100, and  
8 instream flow elements as contained in RCW 90.82.080. The initiating  
9 governments shall work with state government, other local governments  
10 within the management area, and affected tribal governments, in  
11 developing a planning process. The initiating governments may hold  
12 public meetings as deemed necessary to develop a proposed scope of work  
13 and a proposed composition of the planning unit. In developing a  
14 proposed composition of the planning unit, the initiating governments  
15 shall provide for representation of a wide range of water resource  
16 interests.

17 (7) Each state agency with regulatory or other interests in the  
18 WRIA or multi-WRIA area to be planned shall assist the local citizens  
19 in the planning effort to the greatest extent practicable, recognizing  
20 any fiscal limitations. In providing such technical assistance and to  
21 facilitate representation on the planning unit, state agencies may  
22 organize and agree upon their representation on the planning unit.  
23 Such technical assistance must only be at the request of and to the  
24 extent desired by the planning unit conducting such planning. The  
25 number of state agency representatives on the planning unit shall be  
26 determined by the initiating governments in consultation with the  
27 governor's office.

28 (8) As used in this section, "lead agency" means the entity that  
29 coordinates staff support of its own or of other local governments and  
30 receives grants under RCW 90.82.130 for developing and for  
31 implementation coordination and oversight of a watershed plan.

32 NEW SECTION. **Sec. 7.** A new section is added to chapter 90.82 RCW  
33 to read as follows:

34 The department and all other state agencies, acting within the  
35 authorities, restrictions, and responsibilities of the statutes they  
36 administer and available resources, shall act on the approvals and  
37 permits needed to implement any plan approved under this chapter. In

1 instances where granting particular approvals or permits is not  
2 consistent with those authorities and responsibilities, the agencies or  
3 divisions within the department shall identify to the director the  
4 changes in statute that would allow them to grant the approvals and  
5 permits. By December 31, 2003, and by December 31st of each year  
6 thereafter, the director of the department shall report to the  
7 appropriate standing committees of the legislature and to the governor  
8 on the statutory changes that would be necessary to provide the state  
9 agency approvals and permits identified under this section.

10 NEW SECTION. **Sec. 8.** A new section is added to chapter 90.54 RCW  
11 to read as follows:

12 (1) When a comprehensive water resource program is developed in  
13 segments under RCW 90.54.040(1), the watershed planning shall be  
14 conducted through local planning groups that represent at least the  
15 diversity of interests required for planning conducted under chapter  
16 90.82 RCW. Any plan developed under this section shall include, but is  
17 not limited to, the water supply and use assessment and strategies for  
18 future use required for planning conducted under chapter 90.82 RCW by  
19 RCW 90.82.070 and the following:

20 (a) Strategies for achieving the water resource objectives listed  
21 in section 5(1) of this act;

22 (b) Timelines for achieving each of the objectives listed in  
23 section 5(2) of this act and interim milestones for measuring progress  
24 in achieving the objectives; and

25 (c) An identification of the state and local administrative  
26 approvals and permits that must be secured to achieve the objectives  
27 listed in section 5(3) of this act.

28 The department and all other state agencies, acting within the  
29 authorities, restrictions, and responsibilities of the statutes they  
30 administer and available resources, shall act on the approvals and  
31 permits needed to implement any plan approved under this section. In  
32 instances where granting particular approvals or permits is not  
33 consistent with those authorities and responsibilities, the agencies or  
34 divisions within the department shall identify to the director the  
35 changes in statute that would allow them to grant the approvals and  
36 permits.

1 (2) The director shall include within the report required by  
2 section 7 of this act the director's recommendations for changes in  
3 statutes from those identified under this section.

4 NEW SECTION. **Sec. 9.** A new section is added to chapter 90.54 RCW  
5 to read as follows:

6 Instream flow requirements must be established for not less than  
7 the main stem of the principal stream or river in each water resource  
8 inventory area established in chapter 173-500 WAC as it exists on the  
9 effective date of this section.

10 **COORDINATING WATERSHED, WATER QUALITY, AND SALMON RECOVERY PLANNING**

11 NEW SECTION. **Sec. 10.** A new section is added to chapter 90.48 RCW  
12 to read as follows:

13 This section applies to any work conducted by the department for  
14 determining or allocating total maximum daily loads for approval by the  
15 United States environmental protection agency under the federal clean  
16 water act (33 U.S.C. Sec. 1251 et seq.). The department shall design  
17 its work schedule and plan for conducting such activities in a manner  
18 that facilitates the involvement of watershed planning units conducting  
19 planning under RCW 90.82.090. As a minimum, the department shall:

20 (1) Schedule its work so that the involvement of planning units  
21 under subsection (3) of this section is possible under the work  
22 schedules established or likely to be established for the units to  
23 implement RCW 90.82.090;

24 (2) Arrange its longer-term work schedule in a way that allows  
25 initiating governments to know that their choice to require a water  
26 quality component under RCW 90.82.090 or to initiate planning under RCW  
27 90.82.060(7) would include the involvement of their planning unit under  
28 subsection (3) of this section; and

29 (3) Designate the planning units conducting planning under RCW  
30 90.82.090 as the local advisory bodies to be used, consistent with  
31 section 11 of this act, when the department conducts total maximum  
32 daily load activities in any portion of the area for which the unit is  
33 conducting such planning. This requirement does not apply to  
34 activities regarding an allocation of total maximum daily load for a  
35 body of water if the allocation is submitted by the department to the

1 United States environmental protection agency for approval under the  
2 federal clean water act before or within six months of the effective  
3 date of this section.

4 NEW SECTION. **Sec. 11.** A new section is added to chapter 90.82 RCW  
5 to read as follows:

6 A planning unit conducting planning under RCW 90.82.090 may choose  
7 to assign the responsibility of being the local advisory body for total  
8 maximum daily load activities under section 10 of this act to: The  
9 members of the planning unit, as a whole, except those representing  
10 state agencies; some portion of the membership of the planning unit,  
11 other than the members representing state agencies; or any combination  
12 it may choose of its membership, other than state agency  
13 representatives, and any additional individuals it may choose who agree  
14 to participate.

15 **Sec. 12.** RCW 90.82.090 and 1998 c 247 s 5 are each amended to read  
16 as follows:

17 If the initiating governments choose to include a water quality  
18 component, the watershed plan shall include the following elements:

19 (1) An examination based on existing studies conducted by federal,  
20 state, and local agencies of the degree to which legally established  
21 water quality standards are being met in the management area;

22 (2) An examination based on existing studies conducted by federal,  
23 state, and local agencies of the causes of water quality violations in  
24 the management area, including an examination of information regarding  
25 pollutants, point and nonpoint sources of pollution, and pollution-  
26 carrying capacities of water bodies in the management area. The  
27 analysis shall take into account seasonal stream flow or level  
28 variations, natural events, and pollution from natural sources that  
29 occurs independent of human activities;

30 (3) An examination of the legally established characteristic uses  
31 of each of the nonmarine bodies of water in the management area;

32 (4) An examination of any total maximum daily load established for  
33 nonmarine bodies of water in the management area(~~(, unless a total~~  
34 ~~maximum daily load process has begun in the management area as of the~~  
35 ~~date the watershed planning process is initiated under RCW 90.82.060));~~

1 (5) An examination of existing data related to the impact of fresh  
2 water on marine water quality;

3 (6) A recommended approach for implementing the total maximum daily  
4 load established for achieving compliance with water quality standards  
5 for the nonmarine bodies of water in the management area(~~(, unless a~~  
6 ~~total maximum daily load process has begun in the management area as of~~  
7 ~~the date the watershed planning process is initiated under RCW~~  
8 ~~90.82.060))~~); and

9 (7) Recommended means of monitoring by appropriate government  
10 agencies whether actions taken to implement the approach to bring about  
11 improvements in water quality are sufficient to achieve compliance with  
12 water quality standards.

13 This chapter does not obligate the state to undertake analysis or  
14 to develop strategies required under the federal clean water act (33  
15 U.S.C. Sec. 1251 et seq.). This chapter does not authorize any  
16 planning unit, lead agency, or local government to adopt water quality  
17 standards or total maximum daily loads under the federal clean water  
18 act.

19 **Sec. 13.** RCW 90.82.120 and 1998 c 247 s 8 are each amended to read  
20 as follows:

21 (1) Watershed planning developed and approved under this chapter  
22 shall not contain provisions that: (a) Are in conflict with existing  
23 state statutes, federal laws, or tribal treaty rights; (b) impair or  
24 diminish in any manner an existing water right evidenced by a claim  
25 filed in the water rights claims registry established under chapter  
26 90.14 RCW or a water right certificate or permit; (c) require a  
27 modification in the basic operations of a federal reclamation project  
28 with a water right the priority date of which is before June 11, 1998,  
29 or alter in any manner whatsoever the quantity of water available under  
30 the water right for the reclamation project, whether the project has or  
31 has not been completed before June 11, 1998; (d) affect or interfere  
32 with an ongoing general adjudication of water rights; (e) modify or  
33 require the modification of any waste discharge permit issued under  
34 chapter 90.48 RCW; (f) except as provided in RCW 77.85.050(1)(c),  
35 modify or require the modification of activities or actions taken or  
36 intended to be taken under a habitat restoration work schedule  
37 developed under chapter 246, Laws of 1998; or (g) modify or require the

1 modification of activities or actions taken to protect or enhance fish  
2 habitat if the activities or actions are: (i) Part of an approved  
3 habitat conservation plan and an incidental take permit, an incidental  
4 take statement, a management or recovery plan, or other cooperative or  
5 conservation agreement entered into with a federal or state fish and  
6 wildlife protection agency under its statutory authority for fish and  
7 wildlife protection that addresses the affected habitat; or (ii) part  
8 of a water quality program adopted by an irrigation district under  
9 chapter 87.03 RCW or a board of joint control under chapter 87.80 RCW.  
10 This subsection (1)(g) applies as long as the activities or actions  
11 continue to be taken in accordance with the plan, agreement, permit, or  
12 statement. Any assessment conducted under RCW 90.82.070, 90.82.090, or  
13 90.82.100 shall take into consideration such activities and actions and  
14 those taken under the forest practices rules, including watershed  
15 analysis adopted under the forest practices act, chapter 76.09 RCW.

16 (2) Watershed planning developed and approved under this chapter  
17 shall not change existing local ordinances or existing state rules or  
18 permits, but may contain recommendations for changing such ordinances  
19 or rules.

20 (3) Notwithstanding any other provision of this chapter, watershed  
21 planning shall take into account forest practices rules under the  
22 forest practices act, chapter 76.09 RCW, and shall not create any  
23 obligations or restrictions on forest practices additional to or  
24 inconsistent with the forest practices act and its implementing rules,  
25 whether watershed planning is approved by the counties or the  
26 department.

27 **Sec. 14.** RCW 77.85.050 and 1999 sp.s. c 13 s 11 are each amended  
28 to read as follows:

29 (1)(a) Counties, cities, and tribal governments must jointly  
30 designate, by resolution or by letters of support, the area for which  
31 a habitat project list is to be developed and the lead entity that is  
32 to be responsible for submitting the habitat project list. No project  
33 included on a habitat project list shall be considered mandatory in  
34 nature and no private landowner may be forced or coerced into  
35 participation in any respect. The lead entity may be a county, city,  
36 conservation district, special district, tribal government, or other  
37 entity.

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

9 (c) The committee shall compile a list of habitat projects,  
10 establish priorities for individual projects, define the sequence for  
11 project implementation, and submit these activities as the habitat  
12 project list. In any WRIA for which watershed planning is being  
13 conducted by a planning unit under RCW 90.82.100, the committee and the  
14 lead entity shall share their information regarding the WRIA with the  
15 planning unit, and the committee and the lead entity shall consult with  
16 the planning unit in preparing and in adding activities to the habitat  
17 project list for that WRIA. The committee shall also identify  
18 potential federal, state, local, and private funding sources.

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

26 (3) The lead entity shall submit the habitat project list to the  
27 technical review team in accordance with procedures adopted by the  
28 board.

29 **Sec. 15.** RCW 77.85.130 and 2000 c 107 s 102 and 2000 c 15 s 1 are  
30 each reenacted and amended to read as follows:

31 (1) The salmon recovery funding board shall develop procedures and  
32 criteria for allocation of funds for salmon habitat projects and salmon  
33 recovery activities on a statewide basis to address the highest  
34 priorities for salmon habitat protection and restoration. To the  
35 extent practicable the board shall adopt an annual allocation of  
36 funding. The allocation should address both protection and restoration  
37 of habitat, and should recognize the varying needs in each area of the

1 state on an equitable basis. The board has the discretion to partially  
2 fund, or to fund in phases, salmon habitat projects. The board may  
3 annually establish a maximum amount of funding available for any  
4 individual project, subject to available funding. No projects required  
5 solely as a mitigation or a condition of permitting are eligible for  
6 funding.

7 (2)(a) In evaluating, ranking, and awarding funds for projects and  
8 activities the board shall give preference to projects that:

9 (i) Are based upon the limiting factors analysis identified under  
10 RCW 77.85.060;

11 (ii) Provide a greater benefit to salmon recovery based upon the  
12 stock status information contained in the department of fish and  
13 wildlife salmonid stock inventory (SASSI), the salmon and steelhead  
14 habitat inventory and assessment project (SSHIAP), and any comparable  
15 science-based assessment when available;

16 (iii) Will benefit listed species and other fish species; and

17 (iv) Will preserve high quality salmonid habitat.

18 (b) In evaluating, ranking, and awarding funds for projects and  
19 activities the board shall also give consideration to projects that:

20 (i) Are the most cost-effective;

21 (ii) Have the greatest matched or in-kind funding; and

22 (iii) Will be implemented by a sponsor with a successful record of  
23 project implementation.

24 (3) The board may reject, but not add, projects from a habitat  
25 project list submitted by a lead entity for funding. After January 1,  
26 2004, the board shall not provide funding for any project in a WRIA for  
27 which planning is being conducted under RCW 90.82.100 unless the lead  
28 entity as well as the planning unit for the WRIA under chapter 90.82  
29 RCW both document that the consultation required by RCW 77.85.050(1)(c)  
30 has been conducted for the project.

31 (4) For fiscal year 2000, the board may authorize the interagency  
32 review team to evaluate, rank, and make funding decisions for  
33 categories of projects or activities or from funding sources provided  
34 for categories of projects or activities. In delegating such authority  
35 the board shall consider the review team's staff resources, procedures,  
36 and technical capacity to meet the purposes and objectives of this  
37 chapter. The board shall maintain general oversight of the team's  
38 exercise of such authority.

1 (5) The board shall seek the guidance of the technical review team  
2 to ensure that scientific principles and information are incorporated  
3 into the allocation standards and into proposed projects and  
4 activities. If the technical review team determines that a habitat  
5 project list complies with the critical pathways methodology under RCW  
6 77.85.060, it shall provide substantial weight to the list's project  
7 priorities when making determinations among applications for funding of  
8 projects within the area covered by the list.

9 (6) The board shall establish criteria for determining when block  
10 grants may be made to a lead entity or other recognized regional  
11 recovery entity consistent with one or more habitat project lists  
12 developed for that region. Where a lead entity has been established  
13 pursuant to RCW 77.85.050, the board may provide grants to the lead  
14 entity to assist in carrying out lead entity functions under this  
15 chapter, subject to available funding. The board shall determine an  
16 equitable minimum amount of funds for each region, and shall distribute  
17 the remainder of funds on a competitive basis.

18 (7) The board may waive or modify portions of the allocation  
19 procedures and standards adopted under this section in the award of  
20 grants or loans to conform to legislative appropriations directing an  
21 alternative award procedure or when the funds to be awarded are from  
22 federal or other sources requiring other allocation procedures or  
23 standards as a condition of the board's receipt of the funds. The  
24 board shall develop an integrated process to manage the allocation of  
25 funding from federal and state sources to minimize delays in the award  
26 of funding while recognizing the differences in state and legislative  
27 appropriation timing.

28 (8) The board may award a grant or loan for a salmon recovery  
29 project on private or public land when the landowner has a legal  
30 obligation under local, state, or federal law to perform the project,  
31 when expedited action provides a clear benefit to salmon recovery, and  
32 there will be harm to salmon recovery if the project is delayed. For  
33 purposes of this subsection, a legal obligation does not include a  
34 project required solely as a mitigation or a condition of permitting.

35 (9) The board may condition a grant or loan to include the  
36 requirement that property may only be transferred to a federal agency  
37 if the agency that will acquire the property agrees to comply with all  
38 terms of the grant or loan to which the project sponsor was obligated.

1 Property acquired or improved by a project sponsor may be conveyed to  
2 a federal agency, but only if the agency agrees to comply with all  
3 terms of the grant or loan to which the project sponsor was obligated.

4 NEW SECTION. **Sec. 16.** The legislature does not intend to  
5 appropriate additional funds for the implementation of this act and  
6 expects all affected state agencies to implement this act's provisions  
7 within existing funds.

8 NEW SECTION. **Sec. 17.** Headings used in this act are not any part  
9 of the law."

10 Correct the title.

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