

2SSB 5027 - H COMM AMD

By Committee on Agriculture & Natural Resources

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 WRIAs 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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (B) Second, single WRIA planning;

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

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

32 (B) Second, single WRIA planning.

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

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

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

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

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

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

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

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

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

1 it. Approval of such a proposal shall be made by a majority vote of
2 the members of each of the counties with territory in the management
3 area.

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

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

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

1 review implementation needs with respect to budget and staffing; ((or))
2 (b) for counties, the obligations are binding on the counties and the
3 counties shall adopt any necessary implementing ordinances and take
4 other actions to fulfill their obligations as soon as possible, and
5 should annually review implementation needs with respect to budget and
6 staffing; or (c) for an organization voluntarily accepting an
7 obligation, the organization must adopt policies, procedures,
8 agreements, rules, or ordinances to implement the plan, and should
9 annually review implementation needs with respect to budget and
10 staffing.

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

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

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

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

34 (1) Upon approval of the watershed plan, the role of the planning
35 unit is to provide coordination and oversight during the implementation
36 of the plan. This may include a number of interrelated activities,

1 such as seeking funding; tracking progress towards implementation
2 milestones; making adjustments to respond to new information and
3 changing conditions; coordinating the many implementation actions being
4 performed by different organizations in the watershed; and responding
5 to local needs and concerns as expressed by elected officials,
6 stakeholders, and the public. Supporting activities also include
7 public outreach and education; long-term monitoring activities and
8 associated research; data management; and program evaluation.

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

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

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

- 24 (a) Providing sufficient water for productive agriculture;
- 25 (b) Providing sufficient water for commercial, industrial, and
26 residential use; and
- 27 (c) Providing sufficient water for instream flows.

28 (2) Such a plan must include timelines for achieving these three
29 objectives and interim milestones for measuring progress in achieving
30 the objectives. Such a plan must also identify the state and local
31 administrative approvals and permits that must be secured to achieve
32 these objectives.

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

- 35 (a) How the objectives are to be achieved;
- 36 (b) Timelines for achieving these objectives;

1 (c) How progress is to be measured for achieving the objectives and
2 interim milestones for measuring that progress;

3 (d) How any limiting factors regarding stream flows or water supply
4 that have been identified for salmon in analyses under RCW 77.85.060
5 are to be overcome;

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

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

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

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

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

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

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

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

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

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

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

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

3 The department and all other state agencies, acting within the
4 authorities, restrictions, and responsibilities of the statutes they
5 administer and available resources, shall act on the approvals and
6 permits needed to implement any plan approved under this chapter. In
7 instances where granting particular approvals or permits is not
8 consistent with those authorities and responsibilities, the agencies or
9 divisions within the department shall identify to the director the
10 changes in statute that would allow them to grant the approvals and
11 permits. By December 31, 2003, and by December 31st of each year
12 thereafter, the director of the department shall report to the
13 appropriate standing committees of the legislature and to the governor
14 on the statutory changes that would be necessary to provide the state
15 agency approvals and permits identified under this section.

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

18 (1) When a comprehensive water resource program is developed in
19 segments under RCW 90.54.040(1), the watershed planning shall be
20 conducted through local planning groups that represent at least the
21 diversity of interests required for planning conducted under chapter
22 90.82 RCW. Any plan developed under this section shall include, but is
23 not limited to, the water supply and use assessment and strategies for
24 future use required for planning conducted under chapter 90.82 RCW by
25 RCW 90.82.070 and the following:

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

28 (b) Timelines for achieving each of the objectives listed in
29 section 5(2) of this act and interim milestones for measuring progress
30 in achieving the objectives; and

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

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

1 permits needed to implement any plan approved under this section. In
2 instances where granting particular approvals or permits is not
3 consistent with those authorities and responsibilities, the agencies or
4 divisions within the department shall identify to the director the
5 changes in statute that would allow them to grant the approvals and
6 permits.

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

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

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

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

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

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

26 (1) Schedule its work so that the involvement of planning units
27 under subsection (3) of this section is possible under the work
28 schedules established or likely to be established for the units to
29 implement RCW 90.82.090;

30 (2) Arrange its longer-term work schedule in a way that allows
31 initiating governments to know that their choice to require a water
32 quality component under RCW 90.82.090 or to initiate planning under RCW
33 90.82.060(7) would include the involvement of their planning unit under
34 subsection (3) of this section; and

1 (3) Designate the planning units conducting planning under RCW
2 90.82.090 as the local advisory bodies to be used, consistent with
3 section 11 of this act, when the department conducts total maximum
4 daily load activities in any portion of the area for which the unit is
5 conducting such planning. This requirement does not apply to
6 activities regarding an allocation of total maximum daily load for a
7 body of water if the allocation is submitted by the department to the
8 United States environmental protection agency for approval under the
9 federal clean water act before or within six months of the effective
10 date of this section.

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

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

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

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

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

29 (2) An examination based on existing studies conducted by federal,
30 state, and local agencies of the causes of water quality violations in
31 the management area, including an examination of information regarding
32 pollutants, point and nonpoint sources of pollution, and pollution-
33 carrying capacities of water bodies in the management area. The
34 analysis shall take into account seasonal stream flow or level

1 variations, natural events, and pollution from natural sources that
2 occurs independent of human activities;

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

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

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

11 (6) A recommended approach for implementing the total maximum daily
12 load established for achieving compliance with water quality standards
13 for the nonmarine bodies of water in the management area(~~(, unless a
14 total maximum daily load process has begun in the management area as of
15 the date the watershed planning process is initiated under RCW
16 90.82.060)~~); and

17 (7) Recommended means of monitoring by appropriate government
18 agencies whether actions taken to implement the approach to bring about
19 improvements in water quality are sufficient to achieve compliance with
20 water quality standards.

21 This chapter does not obligate the state to undertake analysis or
22 to develop strategies required under the federal clean water act (33
23 U.S.C. Sec. 1251 et seq.). This chapter does not authorize any
24 planning unit, lead agency, or local government to adopt water quality
25 standards or total maximum daily loads under the federal clean water
26 act.

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

29 (1) Watershed planning developed and approved under this chapter
30 shall not contain provisions that: (a) Are in conflict with existing
31 state statutes, federal laws, or tribal treaty rights; (b) impair or
32 diminish in any manner an existing water right evidenced by a claim
33 filed in the water rights claims registry established under chapter
34 90.14 RCW or a water right certificate or permit; (c) require a
35 modification in the basic operations of a federal reclamation project
36 with a water right the priority date of which is before June 11, 1998,

1 or alter in any manner whatsoever the quantity of water available under
2 the water right for the reclamation project, whether the project has or
3 has not been completed before June 11, 1998; (d) affect or interfere
4 with an ongoing general adjudication of water rights; (e) modify or
5 require the modification of any waste discharge permit issued under
6 chapter 90.48 RCW; (f) except as provided in RCW 77.85.050(1)(c),
7 modify or require the modification of activities or actions taken or
8 intended to be taken under a habitat restoration work schedule
9 developed under chapter 246, Laws of 1998; or (g) modify or require the
10 modification of activities or actions taken to protect or enhance fish
11 habitat if the activities or actions are: (i) Part of an approved
12 habitat conservation plan and an incidental take permit, an incidental
13 take statement, a management or recovery plan, or other cooperative or
14 conservation agreement entered into with a federal or state fish and
15 wildlife protection agency under its statutory authority for fish and
16 wildlife protection that addresses the affected habitat; or (ii) part
17 of a water quality program adopted by an irrigation district under
18 chapter 87.03 RCW or a board of joint control under chapter 87.80 RCW.
19 This subsection (1)(g) applies as long as the activities or actions
20 continue to be taken in accordance with the plan, agreement, permit, or
21 statement. Any assessment conducted under RCW 90.82.070, 90.82.090, or
22 90.82.100 shall take into consideration such activities and actions and
23 those taken under the forest practices rules, including watershed
24 analysis adopted under the forest practices act, chapter 76.09 RCW.

25 (2) Watershed planning developed and approved under this chapter
26 shall not change existing local ordinances or existing state rules or
27 permits, but may contain recommendations for changing such ordinances
28 or rules.

29 (3) Notwithstanding any other provision of this chapter, watershed
30 planning shall take into account forest practices rules under the
31 forest practices act, chapter 76.09 RCW, and shall not create any
32 obligations or restrictions on forest practices additional to or
33 inconsistent with the forest practices act and its implementing rules,
34 whether watershed planning is approved by the counties or the
35 department.

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

3 (1)(a) Counties, cities, and tribal governments must jointly
4 designate, by resolution or by letters of support, the area for which
5 a habitat project list is to be developed and the lead entity that is
6 to be responsible for submitting the habitat project list. No project
7 included on a habitat project list shall be considered mandatory in
8 nature and no private landowner may be forced or coerced into
9 participation in any respect. The lead entity may be a county, city,
10 conservation district, special district, tribal government, or other
11 entity.

12 (b) The lead entity shall establish a committee that consists of
13 representative interests of counties, cities, conservation districts,
14 tribes, environmental groups, business interests, landowners, citizens,
15 volunteer groups, regional fish enhancement groups, and other habitat
16 interests. The purpose of the committee is to provide a citizen-based
17 evaluation of the projects proposed to promote salmon habitat. The
18 technical review team may provide the lead entity with organizational
19 models that may be used in establishing the committees.

20 (c) The committee shall compile a list of habitat projects,
21 establish priorities for individual projects, define the sequence for
22 project implementation, and submit these activities as the habitat
23 project list. In any WRIA for which watershed planning is being
24 conducted by a planning unit under RCW 90.82.100, the committee and the
25 lead entity shall share their information regarding the WRIA with the
26 planning unit, and the committee and the lead entity shall consult with
27 the planning unit in preparing and in adding activities to the habitat
28 project list for that WRIA. The committee shall also identify
29 potential federal, state, local, and private funding sources.

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

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

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

6 (1) The salmon recovery funding board shall develop procedures and
7 criteria for allocation of funds for salmon habitat projects and salmon
8 recovery activities on a statewide basis to address the highest
9 priorities for salmon habitat protection and restoration. To the
10 extent practicable the board shall adopt an annual allocation of
11 funding. The allocation should address both protection and restoration
12 of habitat, and should recognize the varying needs in each area of the
13 state on an equitable basis. The board has the discretion to partially
14 fund, or to fund in phases, salmon habitat projects. The board may
15 annually establish a maximum amount of funding available for any
16 individual project, subject to available funding. No projects required
17 solely as a mitigation or a condition of permitting are eligible for
18 funding.

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

21 (i) Are based upon the limiting factors analysis identified under
22 RCW 77.85.060;

23 (ii) Provide a greater benefit to salmon recovery based upon the
24 stock status information contained in the department of fish and
25 wildlife salmonid stock inventory (SASSI), the salmon and steelhead
26 habitat inventory and assessment project (SSHIAP), and any comparable
27 science-based assessment when available;

28 (iii) Will benefit listed species and other fish species; and
29 (iv) Will preserve high quality salmonid habitat.

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

32 (i) Are the most cost-effective;
33 (ii) Have the greatest matched or in-kind funding; and
34 (iii) Will be implemented by a sponsor with a successful record of
35 project implementation.

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

8 (4) For fiscal year 2000, the board may authorize the interagency
9 review team to evaluate, rank, and make funding decisions for
10 categories of projects or activities or from funding sources provided
11 for categories of projects or activities. In delegating such authority
12 the board shall consider the review team's staff resources, procedures,
13 and technical capacity to meet the purposes and objectives of this
14 chapter. The board shall maintain general oversight of the team's
15 exercise of such authority.

16 (5) The board shall seek the guidance of the technical review team
17 to ensure that scientific principles and information are incorporated
18 into the allocation standards and into proposed projects and
19 activities. If the technical review team determines that a habitat
20 project list complies with the critical pathways methodology under RCW
21 77.85.060, it shall provide substantial weight to the list's project
22 priorities when making determinations among applications for funding of
23 projects within the area covered by the list.

24 (6) The board shall establish criteria for determining when block
25 grants may be made to a lead entity or other recognized regional
26 recovery entity consistent with one or more habitat project lists
27 developed for that region. Where a lead entity has been established
28 pursuant to RCW 77.85.050, the board may provide grants to the lead
29 entity to assist in carrying out lead entity functions under this
30 chapter, subject to available funding. The board shall determine an
31 equitable minimum amount of funds for each region, and shall distribute
32 the remainder of funds on a competitive basis.

33 (7) The board may waive or modify portions of the allocation
34 procedures and standards adopted under this section in the award of
35 grants or loans to conform to legislative appropriations directing an
36 alternative award procedure or when the funds to be awarded are from
37 federal or other sources requiring other allocation procedures or

1 standards as a condition of the board's receipt of the funds. The
2 board shall develop an integrated process to manage the allocation of
3 funding from federal and state sources to minimize delays in the award
4 of funding while recognizing the differences in state and legislative
5 appropriation timing.

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

13 (9) The board may condition a grant or loan to include the
14 requirement that property may only be transferred to a federal agency
15 if the agency that will acquire the property agrees to comply with all
16 terms of the grant or loan to which the project sponsor was obligated.
17 Property acquired or improved by a project sponsor may be conveyed to
18 a federal agency, but only if the agency agrees to comply with all
19 terms of the grant or loan to which the project sponsor was obligated.

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

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

26 Correct the title.

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