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HOUSE BILL 1421

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State of Washington

58th Legislature

2003 Regular Session

By Representatives Quall, Schoesler, Morris, Sehlin, Hatfield, Benson, Sullivan, Bailey and Linville

Read first time 01/24/2003. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to enhancement of fish habitat on public lands in  
2 Skagit county; adding a new section to chapter 77.85 RCW; and creating  
3 a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that there are  
6 significant impacts to existing economies and legally protected land  
7 uses in Skagit county resulting from the current activities involving  
8 the use of a regulatory approach to restore and enhance habitat for  
9 anadromous fisheries within the county. The legislature finds that  
10 while it has authorized regulatory approaches by state and local  
11 governments to protect fish habitat and other critical areas, it has  
12 not required nor authorized regulatory approaches to be taken to  
13 restore or enhance fish habitat.

14 By contrast, the legislature finds that there are hundreds of acres  
15 primarily outside the dikes within the county under public ownership  
16 primarily under the management control of the department of natural  
17 resources and the department of fish and wildlife that have the  
18 potential to provide equal or greater value as fish habitat that have

1 not been examined. The purpose of this act is to require a concerted  
2 effort be made to fully use the potential to restore and enhance  
3 fishery habitat on these publicly owned lands as the highest priority.

4 Further, it is recognized that this effort needs to involve  
5 representatives from a wide spectrum of the public and the involved  
6 agencies, and that it be comprised primarily by people who have first-  
7 hand knowledge of the area and who understand its history.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 77.85 RCW  
9 to read as follows:

10 (1)(a) A program for restoration and enhancement of salmonid  
11 habitat on publicly owned lands in Skagit county is created. The  
12 program shall be known as the Skagit salmon habitat enhancement  
13 initiative. The purpose of the program is to provide for the  
14 systematic examination of opportunities to enhance habitat for  
15 salmonids on public lands, develop project proposals and priorities,  
16 apply for funding for implementation of projects, and manage the  
17 projects to completion.

18 (b) The management board created under subsection (2) of this  
19 section shall implement the habitat portion of the plan and is  
20 empowered to receive and disburse funds for the approved salmonid  
21 habitat restoration projects. This management board constitutes the  
22 lead entity and the committee established under RCW 77.85.050  
23 responsible for fulfilling the requirements and exercising powers under  
24 this chapter.

25 (2)(a) A management board consisting of nine voting members is  
26 created. The members shall consist of one county commissioner selected  
27 by the county legislative authority; one member representing the cities  
28 selected by the cities within the county; a member of the Swinomish  
29 Tribe appointed by the tribal council; one representative of diking or  
30 drainage districts selected by the boards of diking and drainage  
31 districts that contain lands within the county; two members of the  
32 general public appointed by the Skagit county board of commissioners to  
33 include one who represents agricultural interests who resides in the  
34 county and one who represents the environmental community who resides  
35 in the county; a representative of the department of fish and wildlife  
36 appointed by the chair of the state fish and wildlife commission; one  
37 representative appointed by the governor; and a representative of the

1 department of natural resources appointed by the commissioner of public  
2 lands. The management board may appoint and consult with a technical  
3 advisory committee or consultants to perform work for the management  
4 board.

5 (b) The chair of the management board shall be elected by the  
6 members of the management board. In making appointments under this  
7 subsection, the county commissioners shall consider recommendations of  
8 interested parties. Vacancies shall be filled in the same manner as  
9 the original appointments were selected.

10 (c) No action may be brought or maintained against any management  
11 board member, the management board, or any of its agents, officers, or  
12 employees for any noncontractual acts or omissions in carrying out the  
13 purposes of this section.

14 (3)(a) The management board shall participate in the review and  
15 development of a restoration and enhancement plan on public lands to  
16 implement its responsibilities under (b) of this subsection. The  
17 management board shall consider local watershed efforts and activities  
18 that pertain to fish habitat enhancement and restoration on public  
19 land. This section does not limit the authority of units of local  
20 government to enter into interlocal agreements under chapter 39.34 RCW  
21 or any other provision of law.

22 (b) The management board is responsible for implementing the plan.  
23 The management board may not preempt the authority of cities, counties,  
24 or diking and drainage districts. If any plan or project developed by  
25 the management board conflicts with a state law or rule, the management  
26 board shall provide recommendations to the legislature for ways to  
27 address the conflict if the management board believes the project or  
28 plan should move forward.

29 (c) The management board shall prioritize and approve projects and  
30 programs related to the restoration and enhancement of salmonid  
31 habitat, including seeking funding of those projects and programs  
32 through the salmon recovery funding board, and coordinate local  
33 government efforts as prescribed in the plan. The management board  
34 shall establish criteria for funding projects and programs based upon  
35 their likely value in salmonid restoration. The management board may  
36 consider local economic impact among the criteria.

37 (d) The management board is encouraged to use state and local

1 expertise, volunteer groups, interest groups, and affected units of  
2 local government.

3 (4) The management board may hire and fire staff including an  
4 executive director, enter into contracts, accept grants and other  
5 moneys, disburse funds, pay all necessary expenses, and choose a  
6 fiduciary agent. The management board shall report on its progress on  
7 a quarterly basis to the county legislative authority and state natural  
8 resource-related agencies. The management board shall prepare a final  
9 report at the conclusion of the program describing its efforts and  
10 successes in implementing the habitat restoration plan associated with  
11 restoring and enhancing salmon habitat on publicly owned lands. The  
12 final report shall be transmitted to the appropriate committees of the  
13 legislature, the legislative body of the participating county, and the  
14 state natural resource-related agencies.

15 (5) The definitions in this subsection apply throughout this  
16 section.

17 (a) "Enhance" means to increase the quantity or the quality of  
18 available fish habitat.

19 (b) "Protect" means to maintain the status, to save from loss, or  
20 to prevent further harm to fish habitat. "Protect" includes the no net  
21 loss of fish habitat concept as measured from the current condition.

22 (c) "Restore" means to bring back to a former position or  
23 condition, to put back or bring back into existence or use, or to bring  
24 back to or put back into a former or original state of fish habitat.

25 (6) The program terminates July 1, 2006, unless extended by the  
26 legislature.

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