
SENATE BILL 5332

State of Washington

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By Senators Honeyford, Fraser, Parlette, B. Sheldon, Hale, Regala, Hewitt and Doumit; by request of Governor Locke

Read first time 01/22/2003. Referred to Committee on Natural Resources, Energy & Water.

1 AN ACT Relating to watershed planning; amending RCW 90.82.040 and
2 90.82.130; and adding a new section to chapter 90.82 RCW.

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

4 **Sec. 1.** RCW 90.82.040 and 2001 c 237 s 2 are each amended to read
5 as follows:

6 (1) Once a WRIA planning unit has been initiated under RCW
7 90.82.060 and a lead agency has been designated, it shall notify the
8 department and may apply to the department for funding assistance for
9 conducting the planning and implementation. Funds shall be provided
10 from and to the extent of appropriations made by the legislature to the
11 department expressly for this purpose.

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

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

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

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

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

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

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

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

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

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

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

3 (i) The planning unit meets all of the requirements of this
4 chapter;

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

7 (iii) The application and supporting information evidences a
8 readiness to proceed.

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

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

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

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

21 (B) Second, single WRIA planning;

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

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

26 (B) Second, single WRIA planning.

27 (d) Except for phase four watershed plan implementation, the
28 department may not impose any local matching fund requirement as a
29 condition for grant eligibility or as a preference for receiving a
30 grant.

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

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

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

1 **Sec. 2.** RCW 90.82.130 and 2001 c 237 s 4 are each amended to read
2 as follows:

3 (1)(a) Upon completing its proposed watershed plan, the planning
4 unit may approve the proposal by consensus of all of the members of the
5 planning unit or by consensus among the members of the planning unit
6 appointed to represent units of government and a majority vote of the
7 nongovernmental members of the planning unit.

8 (b) If the proposal is approved by the planning unit, the unit
9 shall submit the proposal to the counties with territory within the
10 management area. If the planning unit has received funding beyond the
11 initial organizing grant under RCW 90.82.040, such a proposal approved
12 by the planning unit shall be submitted to the counties within four
13 years of the date that funds beyond the initial funding are first drawn
14 upon by the planning unit.

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

19 (2)(a) The legislative authority of each of the counties with
20 territory in the management area shall provide public notice of and
21 conduct at least one public hearing on the proposed watershed plan
22 submitted under this section. After the public hearings, the
23 legislative authorities of these counties shall convene in joint
24 session to consider the proposal. The counties may approve or reject
25 the proposed watershed plan for the management area, but may not amend
26 it. Approval of such a proposal shall be made by a majority vote of
27 the members of each of the counties with territory in the management
28 area.

29 (b) If a proposed watershed plan is not approved, it shall be
30 returned to the planning unit with recommendations for revisions.
31 Approval of such a revised proposal by the planning unit and the
32 counties shall be made in the same manner provided for the original
33 watershed plan. If approval of the revised plan is not achieved, the
34 process shall terminate.

35 (3) The planning unit shall not add an element to its watershed
36 plan that creates an obligation unless each of the governments to be
37 obligated has at least one representative on the planning unit and the
38 respective members appointed to represent those governments agree to

1 adding the element that creates the obligation. A member's agreeing to
2 add an element shall be evidenced by a recorded vote of all members of
3 the planning unit in which the members record support for adding the
4 element. If the watershed plan is approved under subsections (1) and
5 (2) of this section and the plan creates obligations: (a) For agencies
6 of state government, the agencies shall adopt by policy, procedures,
7 agreements, or rules the obligations of both state and county
8 governments and procedures or rules implementing the state obligations,
9 the obligations on state agencies are binding upon adoption of the
10 obligations (~~(into rule)~~), and the agencies shall take other actions to
11 fulfill their obligations as soon as possible, and should annually
12 review implementation needs with respect to budget and staffing; (~~(or)~~)
13 (b) for counties, the obligations are binding on the counties and the
14 counties shall adopt any necessary implementing ordinances and take
15 other actions to fulfill their obligations as soon as possible, and
16 should annually review implementation needs with respect to budget and
17 staffing; or (c) for an organization voluntarily accepting an
18 obligation, the organization must adopt policies, procedures,
19 agreements, rules, or ordinances to implement the plan, and should
20 annually review implementation needs with respect to budget and
21 staffing.

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

26 NEW SECTION. Sec. 3. A new section is added to chapter 90.82 RCW
27 to read as follows:

28 (1) Upon approval of the watershed plan, the implementing
29 governments may name an implementation lead agency. Implementing
30 governments are local governments, tribal governments, or other units
31 of government that formally accept obligations for plan implementation.
32 The role of the implementation lead agency is to provide coordination
33 and oversight during the implementation of the plan. This may include
34 a number of interrelated activities, such as seeking funding; tracking
35 progress towards implementation milestones; making adjustments to
36 respond to new information and changing conditions; coordinating the
37 many implementation actions being performed by different organizations

1 in the watershed; and responding to local needs and concerns as
2 expressed by elected officials, stakeholders, and the public.
3 Supporting activities will also include public outreach and education;
4 long-term monitoring activities and associated research; data
5 management; and program evaluation. The implementation lead agency may
6 be the same as the lead agency designated for plan development or a
7 different lead agency may be named by the implementing governments.

8 (2) The implementing governments should consider the alternatives
9 for coordination and oversight during implementation of watershed
10 plans. Alternatives include: A planning unit similar to the one that
11 helped develop the plan; individual organizations separately or within
12 the framework of an interlocal agreement or similar formal coordinating
13 mechanism; a water resource district; or another approach identified as
14 effective in the local context. Implementing governments shall
15 consider opportunities to coordinate and integrate with local salmon
16 recovery organizations in selecting an alternative for coordination and
17 oversight.

18 (3) Implementing governments, with the advice of a planning unit or
19 similar group, must provide for periodic review of approved watershed
20 plans and consider recommending amendments if needed. Approval of
21 amendments to a plan must be through the county legislative
22 authorities, following the procedures in RCW 90.82.130. Once approved,
23 the obligations voluntarily accepted by implementing agencies become
24 binding as provided in RCW 90.82.130.

25 (4) Within one year of accepting funding for plan coordination and
26 oversight, the implementing governments must complete a detailed
27 implementation plan. An implementation plan must clearly define
28 coordination and oversight responsibilities; any needed interlocal
29 agreements, rules, or ordinances; specific funding mechanisms; and
30 timelines for carrying out the actions included in the plan. The
31 implementation plan must include coordination of salmon recovery
32 projects with lead entities working under chapter 246, Laws of 1998.
33 Submittal of a detailed implementation plan to the department is a
34 condition for receiving grants for the second and all subsequent years
35 of the phase four grant.

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