
SENATE BILL 6128

State of Washington

58th Legislature

2004 Regular Session

By Senators Morton, Honeyford and Mulliken

Read first time 01/12/2004. Referred to Committee on Natural Resources, Energy & Water.

1 AN ACT Relating to the acquisition of land for fish and wildlife
2 habitat purposes; amending RCW 77.12.037; and reenacting and amending
3 RCW 77.85.130.

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

5 **Sec. 1.** RCW 77.12.037 and 2000 c 107 s 4 are each amended to read
6 as follows:

7 (1) The commission may acquire by gift, easement, purchase, lease,
8 or condemnation lands, buildings, water rights, rights of way, or other
9 necessary property, and construct and maintain necessary facilities for
10 purposes consistent with this title. The commission may authorize the
11 director to acquire property under this section, but the power of
12 condemnation may only be exercised by the director when an
13 appropriation has been made by the legislature for the acquisition of
14 a specific property, except to clear title and acquire access rights of
15 way.

16 (2) If matching funds are required as a condition of a grant or
17 appropriation for land acquisition, the local match may not include a
18 donation by the property owner of any portion of the property to be

1 acquired nor any portion of the value of the property to be acquired
2 regardless of sale price.

3 (3) The commission may sell, lease, convey, or grant concessions
4 upon real or personal property under the control of the department.

5 **Sec. 2.** RCW 77.85.130 and 2000 c 107 s 102 and 2000 c 15 s 1 are
6 each reenacted and amended to read as follows:

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

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

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

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

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

30 (iv) Will preserve high quality salmonid habitat.

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

33 (i) Are the most cost-effective;

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

35 (iii) Will be implemented by a sponsor with a successful record of
36 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.

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

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

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

28 (7) The board may waive or modify portions of the allocation
29 procedures and standards adopted under this section in the award of
30 grants or loans to conform to legislative appropriations directing an
31 alternative award procedure or when the funds to be awarded are from
32 federal or other sources requiring other allocation procedures or
33 standards as a condition of the board's receipt of the funds. The
34 board shall develop an integrated process to manage the allocation of
35 funding from federal and state sources to minimize delays in the award
36 of funding while recognizing the differences in state and legislative
37 appropriation timing.

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

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

15 (10) The board may require local matching funds as a condition of
16 all grants and loans. The local match may be provided in funds or in-
17 kind contributions. For grants or loans for land acquisition, the
18 local match may not include a donation by the property owner of any
19 portion of the property to be acquired.

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