
SUBSTITUTE HOUSE BILL 2902

State of Washington

65th Legislature

2018 Regular Session

By House Agriculture & Natural Resources (originally sponsored by Representatives Wilcox, Blake, Chandler, Barkis, Griffey, DeBolt, Tharinger, Walsh, Chapman, Orcutt, and Stokesbary)

READ FIRST TIME 02/02/18.

1 AN ACT Relating to ensuring that Washington aggressively acts to
2 open fish habitat by removing barriers under all forms of ownership;
3 amending RCW 77.95.160; adding a new section to chapter 77.95 RCW;
4 creating new sections; and making an appropriation.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that the fertile
7 estuaries and connected rivers of the Salish Sea and the Columbia
8 river systems once teemed with salmon and other species that provided
9 the subsistence and foundations for rich human cultures to flourish
10 for millennia. As the population of the area grew, and development
11 moved forward, decisions were made that, in retrospect, seem short-
12 sighted. The very rivers and streams that once provided the vital
13 habitat to Washington's native aquatic species were slowly, one by
14 one, blocked to fish passage.

15 (2) The legislature also finds that, in the last decade,
16 Washington has begun a long-overdue process of identifying and
17 removing these barriers to fish passage that block access to habitat
18 and threaten the vitality of our salmon runs. Some of these
19 investments have made an immediate impact by opening new river miles
20 long blocked to salmonids, whose ancient memories allowed them to
21 reestablish long-lost spawning grounds. Other efforts, such as the

1 over three hundred million dollars invested by forest landowners to
2 remove over six thousand barriers, remain, in many instances,
3 unrealized salmon recovery potential as legacy downstream blockages
4 throughout the watersheds continue to block the fish's transit
5 through these waiting stream segments.

6 (3) The legislature also finds that it should be a priority of
7 the state to avoid undoing, within a few generations, a state of
8 sustainable balance between humans and the natural environment that
9 has provided more than sufficient bounty for hundreds of generations
10 to thrive here.

11 (4) Therefore, it is the intent of the legislature to redouble
12 its commitment and prioritize the use of the state's resources, and
13 those resources that may become available as a result of the state's
14 economic growth, to removing barriers to fish passage under the
15 management of all forms of ownership that are the state's
16 responsibility to remedy: Those of local governments, those enrolled
17 in the family forest fish passage program, and those owned by the
18 state itself. In doing so, it is the intent of the legislature to
19 commit no less than fifty million dollars of general fund support per
20 year towards the funding of fish passage barrier removal projects.
21 These commitments are in addition to any moneys obligated to fish
22 passage barrier removal projects from other sources of funding.

23 NEW SECTION. **Sec. 2.** A new section is added to chapter 77.95
24 RCW to read as follows:

25 (1) The department must, using the funds appropriated consistent
26 with section 4 of this act and amounts appropriated on an ongoing
27 basis each year thereafter, provide funding for fish barrier removal
28 projects in a manner determined by the fish passage barrier removal
29 board created pursuant to RCW 77.95.160. Priority for funding must be
30 given to the following four classes of projects: Transportation
31 projects consistent with RCW 77.95.180 and with other state projects;
32 local projects; projects included in the small forest landowner fish
33 passage program created pursuant to RCW 76.13.150; and other
34 projects, regardless of ownership, identified by the board as
35 necessary to restore access continuity within a watershed.

36 (2) For investments in Puget Sound watersheds, the fish passage
37 barrier removal board should coordinate with the Puget Sound
38 partnership to capture the priorities embodied in their action agenda
39 and set forth by any relevant citizen salmon recovery advisory bodies

1 formed for purposes of the recovery of federally listed endangered
2 species.

3 (3) By December 1st of each year, the department, with the
4 oversight of the fish passage barrier removal board, must document in
5 a report to the appropriate committees of the legislature its
6 progress towards the goal of more quickly, efficiently, and
7 expansively opening fish habitat than has been achieved through the
8 inadequately funded efforts occurring prior to the effective date of
9 this section.

10 (4) As part of the department's biennial and supplemental
11 operating budget requests to the office of financial management, the
12 department must include information on how both current budget and
13 requested appropriations out of the fish passage barrier removal
14 account created in section 5 of this act are anticipated to be spent,
15 as determined by the fish passage barrier removal board.

16 **Sec. 3.** RCW 77.95.160 and 2014 c 120 s 4 are each amended to
17 read as follows:

18 (1) The department shall maintain a fish passage barrier removal
19 board. The board must be composed of a representative from the
20 department, the department of transportation, cities, counties, the
21 governor's salmon recovery office, tribal governments, and the
22 department of natural resources. The representative of the department
23 must serve as chair of the board and may expand the membership of the
24 board to representatives of other governments, stakeholders, and
25 interested entities.

26 (2)(a) The duty of the board is to identify ~~((and))~~, expedite,
27 and oversee the funding of, consistent with section 2 of this act,
28 the removal of human-made or caused impediments to anadromous fish
29 passage in the most efficient manner practical through the
30 development of a coordinated approach and schedule that identifies
31 and prioritizes the projects necessary to eliminate fish passage
32 barriers caused by state and local roads and highways and barriers
33 owned by private parties. Priority for funding must be given to the
34 following four classes of projects: Transportation projects
35 consistent with RCW 77.95.180 and with other state projects; local
36 projects; projects included in the small forest landowner fish
37 passage program created pursuant to RCW 76.13.150; and other
38 projects, regardless of ownership, identified by the board as
39 necessary to restore access continuity within a watershed.

1 (b) The coordinated approach must address fish passage barrier
2 removals in all areas of the state in a manner that is consistent
3 with a recognition that scheduling and prioritization is necessary.

4 (c) The board must coordinate and mutually share information,
5 when appropriate, with:

6 (i) Other fish passage correction programs, including local
7 salmon recovery plan implementation efforts through the governor's
8 salmon recovery office;

9 (ii) The applicable conservation districts when developing
10 schedules and priorities within set geographic areas or counties; and

11 (iii) The recreation and conservation office to ensure that
12 barrier removal methodologies are consistent with, and maximizing the
13 value of, other salmon recovery efforts and habitat improvements that
14 are not primarily based on the removal of barriers.

15 (d) Recommendations must include proposed funding mechanisms and
16 other necessary mechanisms and methodologies to coordinate state,
17 tribal, local, and volunteer barrier removal efforts within each
18 water resource inventory area and satisfy the principles of RCW
19 77.95.180. To the degree practicable, the board must utilize the
20 database created in RCW 77.95.170 and information on fish barriers
21 developed by conservation districts to guide methodology development.
22 The board may consider recommendations by interested entities from
23 the private sector and regional fisheries enhancement groups.

24 (e) When developing a prioritization methodology under this
25 section, the board shall consider:

26 (i) Projects benefiting depressed, threatened, and endangered
27 stocks;

28 (ii) Projects providing access to available and high quality
29 spawning and rearing habitat;

30 (iii) Correcting the lowest barriers within the stream first;

31 (iv) Whether an existing culvert is a full or partial barrier;

32 (v) Projects that are coordinated with other adjacent barrier
33 removal projects; and

34 (vi) Projects that address replacement of infrastructure
35 associated with flooding, erosion, or other environmental damage. (f)

36 The board may not make decisions on fish passage standards or
37 categorize as impassible culverts or other infrastructure
38 developments that have been deemed passable by the department.

1 NEW SECTION. **Sec. 4.** The sum of fifty million dollars, or as
2 much thereof as may be necessary, is appropriated for the fiscal year
3 ending June 30, 2019, from the state general fund to the department
4 of fish and wildlife for fish passage barrier removal projects
5 consistent with section 2 of this act.

6 NEW SECTION. **Sec. 5.** The fish passage barrier removal account
7 is created in the state treasury. At the beginning of fiscal year
8 2020 and each fiscal year thereafter, the state treasurer shall
9 transfer into the fish passage barrier removal account from the
10 general fund the sum of fifty million dollars. The amount transferred
11 must be increased on an annual basis by the percentage rate of annual
12 growth in state general fund revenues, as determined by each June
13 forecast by the economic and revenue forecast council. Moneys in the
14 account may be spent only after appropriation. Expenditures from the
15 account may only be used for the removal of fish passage barriers as
16 described in section 2 of this act.

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