
HOUSE BILL 2531

State of Washington

55th Legislature

1998 Regular Session

By Representative Mastin

Read first time 01/15/98. Referred to Committee on Natural Resources.

1 AN ACT Relating to salmon recovery; amending RCW 90.71.005,
2 90.71.020, 90.71.030, and 90.71.050; adding new sections to chapter
3 43.131 RCW; and adding a new chapter to Title 90 RCW.

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

5 PART I

6 GOVERNOR'S SALMON OFFICE

7 NEW SECTION. **Sec. 101.** FINDINGS. (1) The legislature finds that:

8 (a) The federal national marine fisheries service has undertaken a
9 comprehensive review of the status of Pacific salmon and that this
10 review may result in several areas of the state being listed as
11 threatened or endangered under the federal endangered species act;

12 (b) The state has a strong interest in avoiding a federal listing
13 under the endangered species act. In the event that a listing does
14 occur, it is also strongly in the state's interest to develop a
15 state-based recovery plan that maximizes protection to fish and people;

16 (c) The boundaries of the areas designated as threatened or
17 endangered under the endangered species act will be defined based on
18 populations of salmon and the watersheds in which they live during the

1 fresh water portion of their life cycle. These areas are known as
2 evolutionarily significant units and they do not generally coincide
3 with conventional political boundaries;

4 (d) The problems faced by each of the current and potential
5 evolutionarily significant unit regions are vastly different and will
6 require solutions that are, in general, equally different; and

7 (e) The state needs to develop a capacity to provide rapid
8 assistance that is targeted to the needs and conditions of these
9 evolutionarily significant unit regions.

10 (2) Therefore the legislature declares that it is in the public
11 interest to develop a team of interagency experts within the office of
12 the governor that is capable of providing a wide array of services to
13 an evolutionarily significant unit region.

14 NEW SECTION. **Sec. 102.** DEFINITIONS. The definitions in this
15 section apply throughout this chapter, unless the context clearly
16 requires otherwise.

17 (1) "Executive director" means the executive director of the
18 governor's salmon office.

19 (2) "Region" means an area listed or proposed for listing under the
20 federal endangered species act or in the event that the area is not
21 listed or proposed for listing, a group of contiguous WRIA planning
22 entities formed under section 201 of this act.

23 (3) "WRIA" means a water resource inventory area established in
24 chapter 173-500 WAC as it existed on January 1, 1997.

25 NEW SECTION. **Sec. 103.** FORMATION OF GOVERNOR'S SALMON OFFICE.
26 The governor's salmon office is hereby created. By April 1, 1998, the
27 governor shall appoint an executive director for the office. The
28 executive director shall serve at the pleasure of the governor. The
29 salary of the executive director shall be fixed by the governor,
30 subject to RCW 43.03.040.

31 The executive director may hire up to eight permanent staff. At
32 least one of the permanent staff positions shall be reserved for a
33 person that is knowledgeable in tribal fishery interests. The
34 executive director shall solicit a list of suitable candidates from
35 federally recognized Indian tribes.

1 NEW SECTION. **Sec. 104.** REGIONAL DUTIES. (1) At its option, a
2 regional council may enter into a memorandum of agreement with the
3 executive director for the purpose of developing a salmon recovery plan
4 in collaboration with the governor's salmon office.

5 (2) The memorandum of agreement may specify that the governor's
6 salmon office provide for one or more of the following services on
7 behalf of, or in conjunction with, a regional council:

8 (a) Develop, or assist in the development of, an effective
9 science-based regional salmon recovery plan that meets the requirements
10 of section 203 of this act;

11 (b) Negotiate with the federal government for the approval of the
12 regional salmon recovery plan;

13 (c) Negotiate with the federal government for the integration of
14 federal requirements, including but not limited to, water quality
15 standards under the federal clean water act and any standards,
16 performance measures, or actions that may be required under the federal
17 endangered species act;

18 (d) Assist in identifying and obtaining funding for projects to
19 implement a regional salmon recovery plan;

20 (e) Assist in obtaining permits or in streamlining the permitting
21 process for categories of projects that will be routinely required to
22 implement the regional plan; and

23 (f) Any other services requested by a region that are reasonably
24 related to the development or implementation of a regional salmon
25 recovery plan.

26 (3) The memorandum of agreement may provide for the creation of a
27 regional salmon recovery response team to perform the services under
28 subsection (2) of this section if:

29 (a) The governor's salmon office and the regional council agree to
30 the formation of the team; and

31 (b) Sufficient federal, state, local, tribal, and nongovernmental
32 funds are available.

33 (4) A salmon recovery response team may consist of local, state,
34 federal, tribal, or nongovernmental employees. The team shall not be
35 a state entity. A nonstate employee recruited to serve on the team
36 shall retain the same employer and shall not be considered a state
37 employee. State employees recruited to serve on the team shall be
38 existing employees. The team shall terminate when the agreed-upon
39 services are completed.

1 to be a member of the regional council, except that the executive
2 director shall limit total tribal participation on the regional council
3 to two members.

4 (2) The regional council may:

5 (a) Select an administrator and establish the responsibilities of
6 the administrator;

7 (b) Meet with the executive director and mutually establish the
8 responsibilities of the executive director;

9 (c) Administer any available funds to WRIA entities for salmon
10 planning and implementation efforts. Any state funding provided to a
11 regional council shall be made through a budget proviso that
12 specifically identifies the regional council;

13 (d) Establish a name for the regional council;

14 (e) Contract with an entity to administer volunteer habitat
15 restoration services as provided in sections 401 through 403 of this
16 act; and

17 (f) Conduct any other activity necessary to develop and implement
18 a salmon recovery plan or any portion thereof.

19 NEW SECTION. **Sec. 203.** PLAN REQUIREMENTS. (1) A regional council
20 that opts to develop a salmon recovery plan, on its own or in
21 conjunction with the governor's salmon office, shall submit the plan to
22 the executive director within three years of being listed under the
23 federal endangered species act. The recovery plan shall:

24 (a) Be based on science. This criterion shall include, but not be
25 limited to, a requirement that projects be monitored and the plan
26 include an adaptive management strategy;

27 (b) Ensure that projects or actions identified in the plan have, to
28 the extent possible, quantifiable standards, performance measures, or
29 objectives;

30 (c) Include strategies to ensure that the plan is implemented.
31 Strategies shall include sufficient funding and other provisions
32 designed to provide certainty that the plan is implemented. The plan
33 shall also include a strategy specifically designed to encourage
34 citizen participation in implementing the plan. The strategy may
35 include but shall not be limited to: Technical assistance, voluntary
36 incentives, permit streamlining, media campaigns, and volunteer
37 initiatives.

1 (2) A regional council may not include in a salmon recovery plan a
2 requirement or prohibition that is directed at an entity that has
3 entered into a habitat conservation plan with the federal government
4 unless the regional council has obtained specific written agreement by
5 the affected entity.

6 NEW SECTION. **Sec. 204.** TERMINATION. In any region outside of the
7 Puget Sound region, a regional council shall terminate when a majority
8 of the WRIA planning entities comprising the region:

9 (1) Votes, by simple majority, to terminate the regional council;
10 and

11 (2) Notifies the executive director, in writing, that the council
12 has voted to terminate the region.

13 **PART III**

14 **EXPANDING THE DUTIES OF THE PUGET SOUND ACTION TEAM**

15 **Sec. 301.** RCW 90.71.005 and 1996 c 138 s 1 are each amended to
16 read as follows:

17 (1) The legislature finds that:

18 (a) Puget Sound and related inland marine waterways of Washington
19 state represent a unique and unparalleled resource. A rich and varied
20 range of marine organisms, comprising an interdependent, sensitive
21 communal ecosystem reside in these sheltered waters. Residents of this
22 region enjoy a way of life centered around the waters of Puget Sound,
23 featuring accessible recreational opportunities, world-class port
24 facilities and water transportation systems, harvest of marine food
25 resources, shoreline-oriented life styles, water-dependent industries,
26 tourism, irreplaceable aesthetics, and other activities, all of which
27 to some degree depend upon a clean and healthy marine resource;

28 (b) The Puget Sound water quality authority has done an excellent
29 job in developing a comprehensive plan to identify actions to restore
30 and protect the biological health and diversity of Puget Sound;

31 (c) The large number of governmental entities that now have
32 regulatory programs affecting the water quality and the aquatic and
33 upland habitats of Puget Sound have diverse interests and limited
34 jurisdictions that cannot adequately address the cumulative, wide-
35 ranging impacts that contribute to the degradation of Puget Sound; and

1 (d) Coordination of the regulatory programs, at the state and local
2 level, is best accomplished through the development of interagency
3 mechanisms that allow these entities to transcend their diverse
4 interests and limited jurisdictions.

5 (2) It is therefore the policy of the state of Washington to
6 coordinate the activities of state and local agencies by establishing
7 a biennial work plan that clearly delineates state and local actions
8 necessary to protect and restore the biological health and diversity of
9 Puget Sound. It is further the policy of the state to implement the
10 Puget Sound water quality management plan to the maximum extent
11 possible. It is further the policy of the state to include any
12 recovery plan developed under the federal endangered species act into
13 the Puget Sound water quality management plan.

14 **Sec. 302.** RCW 90.71.020 and 1996 c 138 s 3 are each amended to
15 read as follows:

16 (1) The Puget Sound action team is created. The action team shall
17 consist of: The directors of the departments of ecology; agriculture;
18 natural resources; fish and wildlife; and community, trade, and
19 economic development; the secretaries of the departments of health and
20 transportation; the director of the parks and recreation commission;
21 the director of the interagency committee for outdoor recreation; the
22 administrative officer of the conservation commission designated in RCW
23 89.08.050; one person representing cities, appointed by the governor;
24 one person representing counties, appointed by the governor; one person
25 representing tribal governments, appointed by the governor; and the
26 chair of the action team. The action team shall also include the
27 following ex officio nonvoting members: The regional director of the
28 United States environmental protection agency; the regional supervisor
29 of the national marine fisheries service; and the regional supervisor
30 of the United States fish and wildlife service. The members
31 representing cities and counties shall each be reimbursed for travel
32 expenses as provided in RCW 43.03.050 and 43.03.060.

33 (2) The action team shall:

34 (a) Prepare a Puget Sound work plan and budget for inclusion in the
35 governor's biennial budget;

36 (b) Coordinate monitoring and research programs as provided in RCW
37 90.71.060;

1 (c) Work under the direction of the action team chair as provided
2 in RCW 90.71.040;

3 (d) Coordinate permitting requirements as necessary to expedite
4 permit issuance for any local watershed plan developed pursuant to
5 rules adopted under this chapter;

6 (e) Identify and resolve any policy or rule conflicts that may
7 exist between one or more agencies represented on the action team;

8 (f) Periodically amend the Puget Sound management plan;

9 (g) Enter into, amend, and terminate contracts with individuals,
10 corporations, or research institutions for the purposes of this
11 chapter;

12 (h) Receive such gifts, grants, and endowments, in trust or
13 otherwise, for the use and benefit of the purposes of the action team.
14 The action team may expend the same or any income therefrom according
15 to the terms of the gifts, grants, or endowments;

16 (i) Promote extensive public participation, and otherwise seek to
17 broadly disseminate information concerning Puget Sound;

18 (j) Receive and expend funding from other public agencies;

19 (k) To reduce costs and improve efficiency, review by December 1,
20 1996, all requirements for reports and documentation from state
21 agencies and local governments specified in the plan for the purpose of
22 eliminating and consolidating reporting requirements; and

23 (l) Beginning in December 1998, and every two years thereafter,
24 submit a report to the appropriate policy and fiscal committees of the
25 legislature that describes and evaluates the successes and shortcomings
26 of the current work plan relative to the priority problems identified
27 for each geographic area of Puget Sound.

28 (3) By July 1, 1996, the action team shall begin developing its
29 initial work plan, which shall include the coordination of necessary
30 support staff.

31 (4) The action team shall incorporate, to the maximum extent
32 possible, the recommendations of the council regarding amendments to
33 the Puget Sound [management] plan and the work plan.

34 (5) All proceedings of the action team are subject to the open
35 public meetings act under chapter 42.30 RCW.

36 **Sec. 303.** RCW 90.71.030 and 1996 c 138 s 4 are each amended to
37 read as follows:

1 (1) There is established the Puget Sound council composed of nine
2 members. Seven members shall be appointed by the governor. In making
3 these appointments, the governor shall include representation from
4 business, the environmental community, agriculture, the shellfish
5 industry, commercial fishers, recreational fishers, counties, cities,
6 and the tribes. One member shall be a member of the senate selected by
7 the president of the senate and one member shall be a member of the
8 house of representatives selected by the speaker of the house of
9 representatives. The legislative members shall be nonvoting members of
10 the council. Appointments to the council shall reflect geographical
11 balance and the diversity of population within the Puget Sound basin.
12 Members shall serve four-year terms. Of the initial members appointed
13 to the council, two shall serve for two years, two shall serve for
14 three years, and two shall serve for four years. Thereafter members
15 shall be appointed to four-year terms. Vacancies shall be filled by
16 appointment in the same manner as the original appointment for the
17 remainder of the unexpired term of the position being vacated.
18 Nonlegislative members shall be reimbursed for travel expenses as
19 provided in RCW 43.03.050 and 43.03.060. Legislative members shall be
20 reimbursed as provided in RCW 44.04.120.

21 (2) The council shall:

22 (a) Recommend to the action team projects and activities for
23 inclusion in the biennial work plan;

24 (b) Recommend to the action team coordination of work plan
25 activities with other relevant activities, including but not limited
26 to, agencies' activities other than those funded through the plan,
27 local plan initiatives, and governmental and nongovernmental watershed
28 restoration and protection activities; and

29 (c) Recommend to the action team proposed amendments to the Puget
30 Sound management plan.

31 (3) The chair of the action team shall convene the council at least
32 four times per year and shall jointly convene the council and the
33 action team at least two times per year.

34 **Sec. 304.** RCW 90.71.050 and 1996 c 138 s 6 are each amended to
35 read as follows:

36 (1)(a) Each biennium, the action team shall prepare a Puget Sound
37 work plan and budget for inclusion in the governor's biennial budget.
38 The work plan shall prescribe the necessary federal, state, and local

1 actions to maintain and enhance Puget Sound water quality, including
2 but not limited to, enhancement of recreational opportunities, and
3 restoration of a balanced population of indigenous shellfish, fish, and
4 wildlife. If salmon recovery planning is initiated under sections 201
5 through 204 of this act, the work plan and budget shall include
6 specific actions and projects consistent with the salmon recovery plan.

7 (b) In developing a work plan, the action team shall meet the
8 following objectives:

9 (i) Use the plan elements of the Puget Sound management plan to
10 prioritize local and state actions necessary to restore and protect the
11 biological health and diversity of Puget Sound;

12 (ii) Consider the problems and priorities identified in local
13 plans; and

14 (iii) Coordinate the work plan activities with other relevant
15 activities, including but not limited to, agencies' activities that
16 have not been funded through the plan, local plans, and governmental
17 and nongovernmental watershed restoration activities.

18 (c) In developing a budget, the action team shall identify:

19 (i) The total funds appropriated to implement local projects
20 originating from the planning process developed under chapter 400-12
21 WAC; and

22 (ii) The total funds to implement any other projects designed
23 primarily to restore salmon habitat.

24 (2) In addition to the requirements identified under RCW
25 90.71.020(2)(a), the work plan and budget shall:

26 (a) Identify and prioritize the local and state actions necessary
27 to address the water quality problems in the following locations:

28 (i) Area 1: Island and San Juan counties;

29 (ii) Area 2: Skagit and Whatcom counties;

30 (iii) Area 3: Clallam and Jefferson counties;

31 (iv) Area 4: Snohomish, King, and Pierce counties; and

32 (v) Area 5: Kitsap, Mason, and Thurston counties;

33 (b) Provide sufficient funding to characterize local watersheds,
34 provide technical assistance, and implement state responsibilities
35 identified in the work plan. The number and qualifications of staff
36 assigned to each region shall be determined by the types of problems
37 identified pursuant to (a) of this subsection;

38 (c) Provide sufficient funding to implement and coordinate the
39 Puget Sound ambient monitoring plan pursuant to RCW 90.71.060;

1 (d) Provide funds to assist local jurisdictions to implement
2 elements of the work plan assigned to local governments and to develop
3 and implement local plans;

4 (e) Provide sufficient funding to provide support staff for the
5 action team; and

6 (f) Describe any proposed amendments to the Puget Sound
7 [management] plan.

8 (3) The work plan shall be submitted to the appropriate policy and
9 fiscal committees of the legislature by December 20th of each even-
10 numbered year.

11 (4) The work plan shall be implemented consistent with the
12 legislative provisos of the biennial appropriation acts.

13 (5) In the event that all or any portion of the Puget Sound is
14 proposed for listing under the federal endangered species act, the
15 chair of the action team shall submit the current work plan to the
16 appropriate federal administrator and request that the work plan be
17 evaluated for its ability to protect and recover the species for which
18 the listing is proposed.

19 PART IV

20 PILOT VOLUNTEER HABITAT RESTORATION INITIATIVE

21 NEW SECTION. Sec. 401. FINDINGS--PURPOSE. (1) The legislature
22 finds that:

23 (a) The health of many salmon stocks around the state have declined
24 significantly and are currently in a critical or depressed condition;

25 (b) Citizen involvement will be essential if the general decline in
26 salmon health is to be reversed;

27 (c) Citizens can and will show a remarkable level of involvement
28 and commitment to restoring salmon and the healthy rivers and streams
29 that salmon depend on; and

30 (d) This level of involvement will be achieved only if the program
31 is voluntary, nongovernmental, and widely advertised.

32 (2) The legislature therefore declares it is in the public interest
33 to create a pilot volunteer habitat restoration initiative as provided
34 in this chapter.

35 (3) The purpose of sections 401 through 403 of this act is to
36 create and fund a pilot volunteer habitat restoration initiative to
37 develop, train, and mobilize a substantial volunteer work force to

1 restore salmon health. The pilot initiative shall be a single campaign
2 that is initiated in at least three regions over a six-year period.
3 The pilot initiatives may be conducted over a range of geographic
4 scales including single WRIA, multiple WRIA, and evolutionarily
5 significant unit region. The initiative shall be designed to create a
6 very high level of public awareness of salmon issues and how citizens
7 can be involved in positive solutions. The pilot initiative shall also
8 include a sunset review to provide a full evaluation to the legislature
9 on the strengths and weaknesses of the program.

10 NEW SECTION. **Sec. 402.** HABITAT ACCOUNT. The volunteer habitat
11 restoration account is created in the state treasury to be administered
12 by the department of fish and wildlife. The department may expend
13 funds from this account only for volunteer restoration projects
14 undertaken pursuant to section 403 of this act and for the
15 administration of these projects. Moneys may be spent only after
16 appropriation.

17 NEW SECTION. **Sec. 403.** CREATION OF PILOT INITIATIVE. (1) A pilot
18 volunteer habitat restoration initiative is created when a contract is
19 signed by the director of the department of fish and wildlife, an
20 administrator for a regional council or the lead agency of a single or
21 multiple WRIA planning area, and a nonprofit entity or a collaborative
22 group of nonprofit entities. The contract shall specify the
23 responsibilities of each party to include but not be limited to the
24 following:

- 25 (2) The department of fish and wildlife shall identify:
- 26 (a) The types of projects that are a high priority for salmon
27 restoration and that are appropriate for volunteers to undertake;
- 28 (b) Priority river or stream segments in which projects should
29 occur;
- 30 (c) The standard, performance measure, or objective that each
31 project is to achieve;
- 32 (d) The type of monitoring that should occur for each project;
- 33 (e) A mechanism to streamline state permit requirements for
34 projects that will implement a salmon recovery plan or have been
35 identified by the department of fish and wildlife as having a high
36 priority for salmon restoration;
- 37 (f) The duration of the initiative; and

1 (g) The amount of total funds needed and the amount provided by the
2 department of fish and wildlife.

3 (3) The lead entity representing appropriate local government shall
4 identify:

5 (a) A mechanism to streamline local government permit requirements
6 for projects that will implement a salmon recovery plan or have been
7 identified by the department of fish and wildlife as having a high
8 priority for salmon restoration;

9 (b) Staff resources available to provide training or technical
10 assistance to the project;

11 (c) The fund sources and total funding, both direct and in-kind,
12 that will be provided to the pilot initiative; and

13 (d) A mechanism to coordinate the planning process in chapter 90.82
14 RCW with the projects undertaken by volunteers pursuant to the
15 initiative.

16 (4) The nonprofit entity shall:

17 (a) Recruit volunteers;

18 (b) Provide training appropriate to the project undertaken;

19 (c) Deploy volunteers with sufficient resources to meet the
20 specified standards, performance measures, or objectives established
21 for the project;

22 (d) Provide matching funds from private sponsors;

23 (e) Work with private landowners and governmental entities to
24 identify project opportunities;

25 (f) Work with the appropriate local and state government personnel
26 to identify technical assistance opportunities and permitting
27 obstacles;

28 (g) Work with the media to develop a high level of public awareness
29 about the initiative; and

30 (h) Maintain a geographic information system and data base to track
31 potential and completed projects, monitoring efforts, the degree to
32 which a project met its standard, performance measure, or objective,
33 number of volunteers trained, number of volunteers deployed, and the
34 cost of each project by fund source.

35 (5) For the purposes of this section, "lead entity" shall be:

36 (a) The regional administrator if the pilot initiative is conducted
37 on a regional basis;

38 (b) The lead planning entity if the pilot initiative is conducted
39 on a single or multiple WRIA basis;

1 (c) The chair of the county legislative authority if the pilot
2 initiative is conducted wholly within a single county and there is no
3 lead planning entity designated on a single or a multiple WRIA basis;
4 or

5 (d) As agreed to by the county legislative authorities if the pilot
6 initiative is conducted in one or more WRIAs that are located in two or
7 more counties.

8 (6) The department of fish and wildlife shall not distribute state
9 funds to implement a pilot initiative unless the lead entity
10 representing local government signs the memorandum of agreement.

11 **PART V**
12 **MISCELLANEOUS**

13 NEW SECTION. **Sec. 501.** PART HEADINGS AND CAPTIONS NOT LAW. Part
14 headings and captions used in this chapter are not any part of the law.

15 NEW SECTION. **Sec. 502.** A new section is added to chapter 43.131
16 RCW to read as follows:

17 The governor's salmon office, regional councils, and the pilot
18 volunteer habitat restoration initiative and their powers and duties
19 shall be terminated on June 30, 2004, as provided in section 503 of
20 this act.

21 NEW SECTION. **Sec. 503.** A new section is added to chapter 43.131
22 RCW to read as follows:

23 The following acts or parts of acts, as now existing or hereafter
24 amended, are each repealed, effective June 30, 2005:

- 25 (1) section 101 of this act;
- 26 (2) section 102 of this act;
- 27 (3) section 103 of this act;
- 28 (4) section 104 of this act;
- 29 (5) section 105 of this act;
- 30 (6) section 201 of this act;
- 31 (7) section 202 of this act;
- 32 (8) section 203 of this act;
- 33 (9) section 204 of this act;
- 34 (10) section 401 of this act;
- 35 (11) section 402 of this act;

1 (12) section 403 of this act; and

2 (13) section 501 of this act.

3 NEW SECTION. **Sec. 504.** Sections 101 through 105, 201 through 204,
4 401 through 403, and 501 of this act constitute a new chapter in Title
5 90 RCW.

--- END ---