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SENATE BILL 5386

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State of Washington

55th Legislature

1997 Regular Session

By Senators Oke, Prentice, Patterson, Kline, Haugen, Kohl, Winsley, Franklin and Rasmussen; by request of Department of Fish and Wildlife, Commissioner of Public Lands and Department of Natural Resources

Read first time 01/24/97. Referred to Committee on Natural Resources & Parks.

1 AN ACT Relating to the jobs for the environment program; adding a  
2 new chapter to Title 43 RCW; providing an effective date; and declaring  
3 an emergency.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds the long-term  
6 health of the economy of Washington state depends on healthy natural  
7 resources.

8 (2) The legislature further finds the livelihoods, revenues, and  
9 other benefits derived from Washington's natural resources are  
10 threatened by continuing degradation of water quality and habitat, and  
11 that investment is required to prevent the collapse of economically  
12 important industries that rely on a healthy environment, and improve  
13 poorly functioning ecosystems.

14 (3) The legislature further finds fisheries and timber-dependent  
15 communities can provide the skills and people and affected natural  
16 resource workers could greatly benefit from family wages and benefits  
17 employment associated with implementing priority projects.

18 (4) The legislature therefore declares, and it is the intent and  
19 purpose of this chapter, to make immediate and continuing investment to

1 restore and conserve the health of the state's watersheds, to foster  
2 voluntary watershed partnerships within and near fisheries and timber-  
3 dependent communities, to train and employ affected natural resource  
4 workers, to minimize the need to list species as threatened or  
5 endangered and promote the recovery of those species that remain  
6 listed, and to provide funds to continue the department of ecology's  
7 Washington conservation corps program. And it is also the intent that  
8 employment is at family wages with benefits for those who continue to  
9 be affected by economic dislocation.

10 NEW SECTION. **Sec. 2.** The definitions in this section apply  
11 throughout this chapter unless the context clearly requires otherwise.

12 (1) "Affected natural resource worker" means those workers eligible  
13 to receive wages and benefits through the jobs for the environment  
14 program, including:

15 (a) Workers previously employed under the jobs for the environment  
16 program;

17 (b) Workers in a qualified natural resource training program such  
18 as a state-approved apprenticeship program;

19 (c) New certified dislocated natural resource workers as determined  
20 by the employment security department; and

21 (d) The workers listed in (a) through (c) of this subsection are  
22 preferred;

23 (e) Other workers from fisheries and timber-dependent communities,  
24 as needed.

25 (2) "Agreement" means any jobs for the environment grant,  
26 procurement, contract, or other legally binding document.

27 (3) "Conservation" means activities that support the sustainability  
28 of critical watershed functions including such activities as field  
29 assessment of conditions prior to initiating restoration work and field  
30 and mapping functions related to stream typing.

31 (4) "Impact areas" means rural natural resources impact areas as  
32 defined in RCW 43.31.601 and areas in which at-risk fish stocks  
33 coincide.

34 (5) "Account" means the jobs for the environment restoration  
35 account that provides funding to implement the provisions of this  
36 chapter to restore and conserve watersheds within Washington state.

37 (6) For the purposes of determining eligibility as a direct  
38 applicant to the jobs for the environment program, "private for-profit"

1 is defined as small business, under RCW 19.85.020, which is any  
2 business entity including sole proprietorship, corporation,  
3 partnership, or other legal entity, that is owned and operated  
4 independently from all other businesses that has the purpose of making  
5 a profit and has fifty or fewer employees. Any for-profit business is  
6 eligible to receive funds as a subcontractor to a locally funded  
7 project, regardless of the business size.

8 (7) "Qualified watershed partnership" means an entity consisting of  
9 stakeholders representing diverse interests of the watershed and with  
10 sufficient authority or resources to carry out a long-term restoration  
11 and conservation plan in the area of operation they have identified.

12 (8) "Task force" means the jobs for the environment task force  
13 created under section 4 of this act.

14 NEW SECTION. **Sec. 3.** (1) The jobs for the environment restoration  
15 account is established in the state treasury. Money in the account may  
16 be spent only after appropriation by the legislature and in a manner  
17 consistent with this chapter.

18 (2) Entities eligible to apply for funds include private  
19 nonprofits, small private for-profits, and local, state, and tribal  
20 governments.

21 (3) Funds may only be expended under restoration and conservation  
22 agreements entered into by the state under this chapter that are part  
23 of a long-term restoration and conservation planning effort that  
24 includes an acceptable multiyear capital investment strategy and  
25 contributes to the restoration and conservation identifying financial  
26 participation from key public and private partners. The plan provides  
27 for a local match consisting of funds or in kind of at least twenty  
28 percent in the first year of state investment, and thereafter  
29 increasing the nonstate jobs for the environment share by five percent  
30 or more each year of the plan in which state jobs for the environment  
31 investment is sought, until achieving a fifty-fifty state jobs for the  
32 environment funding to nonstate jobs for the environment funding ratio.

33 (4) Funds are awarded on a competitive basis. Funds shall be used  
34 for watershed and conservation projects and programs as jointly  
35 identified by the department of natural resources and the department of  
36 fish and wildlife with input from the task force. The task force may  
37 review, evaluate, and make recommendations on projects and programs

1 being considered for funding. Of the funds available within the  
2 account, the task force may recommend projects or programs that will:

3 (a) Use up to twenty-five percent of the funds available to fund  
4 projects from within impact areas as determined by the task force to  
5 exist;

6 (b) Use up to fifty percent of the funds available to fund projects  
7 within areas where a qualified watershed partnership exists or would  
8 likely exist in the near future as determined by the task force;

9 (c) Use up to thirteen percent of the funds available for local  
10 projects that carry out area-wide planning, and project or area-wide  
11 monitoring and assessment activities. Up to six and one-half percent  
12 of the funding in this subsection is available for watershed  
13 partnerships not able to meet program planning and monitoring  
14 requirements without this assistance.

15 (5) Up to twelve percent may be expended for administrative and  
16 technical assistance purposes. However, funds expended by the  
17 Washington conservation corps are subject solely to limitations set  
18 forth in RCW 43.220.230.

19 (6) Except for essential administrative, supervisory, and technical  
20 assistance purposes, funds in the account may not be used for hiring  
21 permanent state employees.

22 (7) Funds are not awarded for:

23 (a) Administrative rule making;

24 (b) Community outreach;

25 (c) Acquisition of real property;

26 (d) Mitigation work required under state or federal permits;

27 (e) Incentives or bonuses to salaried employees; or

28 (f) Marketing studies or research.

29 (8) Nonprofit organizations may receive up to ten percent of the  
30 agreement award for start-up costs upon submission of their completed  
31 scope of work.

32 NEW SECTION. **Sec. 4.** (1) The jobs for the environment task force  
33 is created within the department of natural resources. The purpose of  
34 the task force is to provide a coordinated and comprehensive approach  
35 to implementation of this chapter. The task force consists of the  
36 following representative or their designee:

37 (a) The commissioner of public lands;

38 (b) The director of the department of fish and wildlife;

- 1 (c) The director of the department of ecology;
- 2 (d) The director of the work force training and education  
3 coordinating board;
- 4 (e) The governor's rural community assistance team coordinator;
- 5 (f) A tribal representative;
- 6 (g) A federal agency representative from among participating  
7 federal agencies; and
- 8 (h) At least eight public members but no more than ten, selected at  
9 large, representing community and nongovernmental interests.

10 The public members include at least one representative from each of  
11 the following:

- 12 (i) State-wide rural community economic development organization;
- 13 (ii) A conservation district;
- 14 (iii) Small restoration business interest;
- 15 (iv) Fishing and shellfish industry;
- 16 (v) Organized labor;
- 17 (vi) Timber industry;
- 18 (vii) State-wide environmental organization; and
- 19 (viii) Community-based private nonprofit organization with a  
20 watershed restoration focus.

21 The representatives of the tribal, federal, and public members  
22 shall serve three-year terms, except for one-third who shall serve an  
23 initial term of one year and one-third who shall serve an initial term  
24 of two years. The task force may seek the advice of other agencies and  
25 organizations as needed. The commissioner of public lands appoints the  
26 chair and public members. The governor appoints the governmental  
27 members of the task force. A task force quorum for meetings consists  
28 of at least one-half of the state and at least one-half plus one of the  
29 community, tribal, and public members. All members serve without  
30 additional pay, except that public representatives will have travel  
31 costs reimbursed. Participation in the work of the committee by agency  
32 members is considered in performance of their employment. The  
33 department of natural resources will staff and provide administrative  
34 support to the task force and solicit the participation of agency  
35 personnel to assist the task force.

36 (2) The task force has the following responsibilities:

- 37 (a) Reviewing and periodically updating criteria to be used in  
38 selecting projects and programs for funding from the account;

1 (b) Soliciting on a competitive basis, evaluating, and ranking  
2 requests for funds from the account;

3 (c) Recommending projects, agreements, and apprenticeship and  
4 other quality training activities and as defined in section 2 of this  
5 act to the commissioner of public lands for funding;

6 (d) Assisting state agencies and local governments in the  
7 implementation of effective watershed restoration and conservation  
8 projects funded under this chapter, and in the development of qualified  
9 local watershed partnerships and locally based restoration and  
10 conservation plans; and

11 (e) Submitting to the appropriate standing committees of the  
12 legislature a biennial report summarizing the benefits created by the  
13 projects funded under this chapter, and making recommendations for  
14 improving the jobs for the environment program.

15 NEW SECTION. **Sec. 5.** The task force evaluates and recommends  
16 proposals for funding from the account using, at a minimum, the  
17 following criteria:

18 (1) The ability of the proponents of the project to quantify their  
19 projected improvements in water or habitat quality and quantity;

20 (2) The inclusion of the project as a priority in a federal, state,  
21 tribal, or local plan, until a completed watershed restoration and  
22 conservation plan has been prepared;

23 (3) The number and duration of jobs with family wages and benefits  
24 to be created or retained for affected natural resource workers by the  
25 project; projects that achieve stable, one-year or longer jobs. Jobs  
26 that avoid redislocating natural resource workers from the jobs for the  
27 environment program are to be given added consideration over those that  
28 do not;

29 (4) The extent to which the project will help avoid further  
30 listings of threatened or endangered species and providing for recovery  
31 of those already listed;

32 (5) The participation as a cosponsor or employer by tribes or  
33 private for-profits to provide funds, equipment time, materials, or  
34 technical expertise, including training to match state or federal  
35 funds. The jobs for the environment program will strongly promote  
36 training that is offered through a state-approved natural resource  
37 apprenticeship program, whenever practicable, in the area.

1        NEW SECTION.    **Sec. 6.**    The department of natural resources is the  
2 administering state agency for the jobs for the environment program and  
3 may enter into such agreements and cooperative watershed partnerships  
4 that are needed or desired to ensure the effective implementation of  
5 this chapter.    The department of fish and wildlife is the source of  
6 state assistance for knowledge and technical expertise in addressing  
7 fish and wildlife issues.    The department of ecology is the source of  
8 state assistance for knowledge and expertise in addressing water  
9 quality issues.

10        NEW SECTION.    **Sec. 7.**    An individual is considered to be in  
11 training with the approval of the commissioner of employment security  
12 as defined in RCW 50.20.043, and is eligible for applicable  
13 unemployment insurance benefits while participating in and making  
14 satisfactory progress in training related to this chapter.

15        (1) For recruitment purposes, the task force will give notification  
16 of potential new jobs to local employment security offices, local labor  
17 organizations, and central labor councils in the area of funding.    The  
18 list includes the number, location, and types of jobs expected to be  
19 provided by each project.    The employment security department may  
20 recruit additional dislocated workers for these jobs, when needed, by:

21        (a) Notifying dislocated fishers and forest workers who meet the  
22 definitions in chapter 50.70 RCW, who are receiving unemployment  
23 benefits or who have exhausted unemployment benefits, of their  
24 eligibility for the programs;

25        (b) Notifying other unemployed workers;

26        (c) Developing a pool of unemployed workers including high-risk  
27 youth eligible to enroll in the program; and

28        (d) Establishing procedures for workers to apply to the programs.

29        (2) The employment security department may refer eligible workers  
30 to employers hiring under the jobs for the environment programs.  
31 Recipients of funds must consider the list of eligible workers  
32 developed by the employment security department before conducting  
33 interviews or making hiring decisions for dislocated workers entering  
34 the program.    Workers may receive opportunities for vocational  
35 training, job placement, and remedial education.

36        (3) An individual is eligible for applicable employment security  
37 benefits while participating in training related to this chapter.

1 Eligibility is confirmed by the commissioner of employment security by  
2 submitting a commissioner-approved training waiver.

3 (4) Persons receiving funds from the account are not considered  
4 state employees for the purposes of existing provisions of law with  
5 respect to hours of work, sick leave, vacation, and civil service but  
6 may receive health benefits. Persons receiving funds from the account  
7 who are hired by a state agency may receive medical and dental benefits  
8 under chapter 41.05 RCW and industrial insurance coverage under Title  
9 51 RCW, but are exempt from the provisions under chapter 41.06 RCW.

10 (5) Employment under this program does not result in the  
11 displacement or partial displacement, whether by the reduction of hours  
12 of nonovertime work, wages, and benefits, or other employment benefits,  
13 of currently employed workers, including but not limited to state civil  
14 service employees, or of currently or normally contracted services.

15 (6) With an employer's written consent, workers who must commute  
16 daily over sixty miles round trip are eligible for transportation  
17 expenses incurred when using a private vehicle.

18 (7) For the purpose of providing the protection of the unemployment  
19 compensation system to individuals at the conclusion of training or  
20 employment obtained as a result of this chapter, a special base year  
21 and benefit year are established.

22 (a) Only individuals who have entered training or employment  
23 provided by the account, and whose employment or training under the  
24 account was not considered covered under chapter 50.04 RCW, are allowed  
25 the special benefit provisions of this chapter.

26 (b) An application for initial determination made under this  
27 chapter must be filed in writing with the employment security  
28 department within twenty-six weeks following the week in which the  
29 individual commenced employment or training obtained as a result of  
30 this chapter. Notice from the individual, from the employing entity,  
31 or notice of hire from employment security department administrative  
32 records satisfies this requirement.

33 (c) For the purpose of this chapter, a special base year is  
34 established for an individual consisting of the first four of the last  
35 five completed calendar quarters, or if a benefit year is not  
36 established using the first four of the last five completed calendar  
37 quarters as the base year, the last four completed calendar quarters  
38 immediately prior to the first day of the calendar week in which the  
39 individual began employment or training provided by the account.

1 (d) A special individual benefit year is established consisting of  
2 the entire period of training or employment provided by the account and  
3 a fifty-two consecutive week period commencing with the first day of  
4 the calendar week in which the individual last participated in the  
5 employment or training. No special benefit year may have a duration in  
6 excess of three hundred twelve calendar days. This special benefit  
7 year is not established unless the criteria contained in RCW 50.04.030  
8 has been met, except that an individual meeting the requirements of  
9 this chapter and who has an unexpired benefit year established which  
10 would overlap the special benefit year may elect to establish a special  
11 benefit year under this chapter, notwithstanding the provisions in RCW  
12 50.04.030 relating to establishment of a subsequent benefit year, and  
13 RCW 50.40.010 relating to waiver of rights. This unexpired benefit  
14 year is terminated at the beginning of the special benefit year if the  
15 individual elects to establish a special benefit year under this  
16 chapter.

17 (e) The individual's weekly benefit amount and maximum amount  
18 payable during the special benefit year are governed by the provisions  
19 contained in RCW 50.20.120. The individual's basic and continuing  
20 right to benefits are governed by the general laws and rules relating  
21 to the payment of unemployment compensation benefits to the extent that  
22 they are not in conflict with this chapter.

23 (f) The fact that wages, hours, or weeks worked during the special  
24 base year may have been used in computation of a prior valid claim for  
25 unemployment compensation may not affect a claim for benefits made  
26 under this chapter. However, wages, hours, and weeks worked used in  
27 computing entitlement on a claim filed under this chapter are not  
28 available or used for establishing entitlement or amount of benefits in  
29 any succeeding benefit year.

30 (g) Benefits paid to an individual filing under this section are  
31 not charged to the experience rating account of any contribution paying  
32 employer.

33 (8) The department of labor and industries is directed to expedite  
34 through administrative approval of the jobs for the environment  
35 program's current wages as the prevailing wages under chapter 39.12 RCW  
36 for watershed restoration workers employed under this chapter.

37 NEW SECTION. **Sec. 8.** On or before June 30, 2000, the department  
38 of natural resources will prepare a report to the legislature

1 evaluating the implementation of this chapter. Indicators of success  
2 that shall be reported on include the following factors:

3 (1) Whether effective local watershed restoration and conservation  
4 strategies consistent with state guidelines have been adopted;

5 (2) The number of previously dislocated workers, employed and  
6 trained through jobs for the environment, that have found long-term  
7 employment;

8 (3) Active use by sponsors of one or more training curriculum for  
9 watershed restoration workers that promote effective and consistent  
10 skills needed by restoration workers;

11 (4) Whether project design guidelines have been prepared and  
12 applied that are based on generally accepted standards and techniques;

13 (5) The number of funded projects underway in a timely manner;

14 (6) The number of projects started versus successfully completed  
15 and effectively documented; and the completion of a credible program  
16 review allowing the program to learn from individual project strengths  
17 and weaknesses;

18 (7) Whether the program's local match requirements are achieving  
19 the expected results of promoting strong local support;

20 (8) The effectiveness and quantity of on-the-ground  
21 accomplishments, for example, miles of stream bed or riparian area  
22 restored, miles of forest roads impacting water quality that are  
23 decommissioned, and the effectiveness of stream bank projects to reduce  
24 sedimentation; and

25 (9) Whether local watershed health indicators are established and  
26 being adequately monitored and reported on to determine area-wide  
27 progress in meeting watershed health goals.

28 NEW SECTION. **Sec. 9.** Sections 1 through 8 of this act constitute  
29 a new chapter in Title 43 RCW, to be codified to follow chapter 43.21J  
30 RCW.

31 NEW SECTION. **Sec. 10.** This act is necessary for the immediate  
32 preservation of the public peace, health, or safety, or support of the  
33 state government and its existing public institutions, and takes effect  
34 July 1, 1997.

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