
SUBSTITUTE SENATE BILL 6128

State of Washington

58th Legislature

2004 Regular Session

By Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators Morton, Honeyford and Mulliken)

READ FIRST TIME 02/06/04.

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) For any acquisition of property for the purpose of habitat
17 enhancement or preservation, the commission shall make publicly
18 available the following information:

1 (a) The purpose of site acquisition, including a list of species
2 targeted to benefit from the acquisition;

3 (b) A site habitat assessment that includes existing habitat types
4 and species presence;

5 (c) An evaluation of the habitat value of the site in relation to
6 other habitat within the watershed;

7 (d) The anticipated benefits to target species of site habitat
8 preservation or enhancement; and

9 (e) The proposed public use of the property after acquisition.

10 (3) If matching funds are required as a condition of a grant or
11 appropriation for land acquisition, the local match shall not include
12 a donation by the property owner of any portion of the property to be
13 acquired nor any portion of the value of the property to be acquired
14 regardless of sale price.

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

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

19 (1) The salmon recovery funding board shall develop procedures and
20 criteria for allocation of funds for salmon habitat projects and salmon
21 recovery activities on a statewide basis to address the highest
22 priorities for salmon habitat protection and restoration. To the
23 extent practicable the board shall adopt an annual allocation of
24 funding. The allocation should address both protection and restoration
25 of habitat, and should recognize the varying needs in each area of the
26 state on an equitable basis. The board has the discretion to partially
27 fund, or to fund in phases, salmon habitat projects. The board may
28 annually establish a maximum amount of funding available for any
29 individual project, subject to available funding. No projects required
30 solely as a mitigation or a condition of permitting are eligible for
31 funding.

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

34 (i) Are based upon the limiting factors analysis identified under
35 RCW 77.85.060;

36 (ii) Provide a greater benefit to salmon recovery based upon the
37 stock status information contained in the department of fish and

1 wildlife salmonid stock inventory (SASSI), the salmon and steelhead
2 habitat inventory and assessment project (SSHIAP), and any comparable
3 science-based assessment when available;

- 4 (iii) Will benefit listed species and other fish species; and
- 5 (iv) Will preserve high quality salmonid habitat.

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

- 8 (i) Are the most cost-effective;
- 9 (ii) Have the greatest matched or in-kind funding; and
- 10 (iii) Will be implemented by a sponsor with a successful record of

11 project implementation.

12 (3) The board shall evaluate the following information for any
13 proposed project that includes land acquisition:

14 (a) The purpose of site acquisition, including a list of salmon
15 species targeted to benefit from the acquisition;

16 (b) A site habitat assessment that includes existing habitat types
17 and salmon presence;

18 (c) An evaluation of the habitat value of the site in relation to
19 other habitat within the watershed;

20 (d) The anticipated benefits to target species of site habitat
21 preservation or enhancement; and

22 (e) The proposed public use of the property after acquisition.

23 (4) The board may reject, but not add, projects from a habitat
24 project list submitted by a lead entity for funding.

25 ((+4)) (5) For fiscal year 2000, the board may authorize the
26 interagency review team to evaluate, rank, and make funding decisions
27 for categories of projects or activities or from funding sources
28 provided for categories of projects or activities. In delegating such
29 authority the board shall consider the review team's staff resources,
30 procedures, and technical capacity to meet the purposes and objectives
31 of this chapter. The board shall maintain general oversight of the
32 team's exercise of such authority.

33 ((+5)) (6) The board shall seek the guidance of the technical
34 review team to ensure that scientific principles and information are
35 incorporated into the allocation standards and into proposed projects
36 and activities. If the technical review team determines that a habitat
37 project list complies with the critical pathways methodology under RCW

1 77.85.060, it shall provide substantial weight to the list's project
2 priorities when making determinations among applications for funding of
3 projects within the area covered by the list.

4 ~~((+6+))~~ (7) The board shall establish criteria for determining when
5 block grants may be made to a lead entity or other recognized regional
6 recovery entity consistent with one or more habitat project lists
7 developed for that region. Where a lead entity has been established
8 pursuant to RCW 77.85.050, the board may provide grants to the lead
9 entity to assist in carrying out lead entity functions under this
10 chapter, subject to available funding. The board shall determine an
11 equitable minimum amount of funds for each region, and shall distribute
12 the remainder of funds on a competitive basis.

13 ~~((+7+))~~ (8) The board may waive or modify portions of the
14 allocation procedures and standards adopted under this section in the
15 award of grants or loans to conform to legislative appropriations
16 directing an alternative award procedure or when the funds to be
17 awarded are from federal or other sources requiring other allocation
18 procedures or standards as a condition of the board's receipt of the
19 funds. The board shall develop an integrated process to manage the
20 allocation of funding from federal and state sources to minimize delays
21 in the award of funding while recognizing the differences in state and
22 legislative appropriation timing.

23 ~~((+8+))~~ (9) The board may award a grant or loan for a salmon
24 recovery project on private or public land when the landowner has a
25 legal obligation under local, state, or federal law to perform the
26 project, when expedited action provides a clear benefit to salmon
27 recovery, and there will be harm to salmon recovery if the project is
28 delayed. For purposes of this subsection, a legal obligation does not
29 include a project required solely as a mitigation or a condition of
30 permitting.

31 ~~((+9+))~~ (10) The board may condition a grant or loan to include the
32 requirement that property may only be transferred to a federal agency
33 if the agency that will acquire the property agrees to comply with all
34 terms of the grant or loan to which the project sponsor was obligated.
35 Property acquired or improved by a project sponsor may be conveyed to
36 a federal agency, but only if the agency agrees to comply with all
37 terms of the grant or loan to which the project sponsor was obligated.

1 (11) The board may require local matching funds as a condition of
2 all grants and loans. The local match may be provided in funds or in-
3 kind contributions. For grants or loans for land acquisition, the
4 local match shall not include a donation by the property owner of any
5 portion of the property to be acquired.

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