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SENATE BILL 6004

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State of Washington

61st Legislature

2009 Regular Session

By Senators Ranker, Oemig, Pridemore, Rockefeller, and Kline; by request of Governor Gregoire

Read first time 02/12/09. Referred to Committee on Natural Resources, Ocean & Recreation.

1 AN ACT Relating to the consolidation of certain salmon recovery  
2 activities and programs within the recreation and conservation office;  
3 amending RCW 77.85.030, 77.85.020, 77.85.250, 77.85.140, and 77.85.005;  
4 adding new sections to chapter 79A.25 RCW; creating new sections;  
5 recodifying RCW 77.85.020, 77.85.030, and 77.85.250; repealing RCW  
6 77.85.100; and providing expiration dates.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that:

9 (1) Washington has made significant investments in watershed-based  
10 activities, including the establishment of water resource inventory  
11 area (WRIA) planning units and lead agencies, lead entities, and  
12 regional salmon recovery organizations across the state. Washington  
13 watersheds have developed subbasin plans under the Northwest power and  
14 conservation council and national oceanic and atmospheric  
15 administration-approved regional salmon recovery plans that include  
16 locally prioritized salmon recovery projects;

17 (2) The governor's salmon recovery office was established to  
18 support the development and implementation of regional salmon recovery

1 plans, to assist local governments in obtaining federal assurances, and  
2 to issue a biennial state of salmon report;

3 (3) The salmon recovery funding board provides grants for salmon  
4 recovery and the forum on monitoring salmon recovery and watershed  
5 health works to provide greater coordination on monitoring.  
6 Administrative support for the board and the forum are provided by the  
7 recreation and conservation office;

8 (4) Lead entity funding to support infrastructure and capacity  
9 needs is provided through the recreation and conservation office, which  
10 contracts with the department of fish and wildlife to implement the  
11 program. Funding for WRIA planning units and lead agencies to develop  
12 and implement watershed-based plans under RCW 90.82.040 is provided by  
13 the department of ecology; and

14 (5) Currently, state watershed and salmon recovery-based programs  
15 are split among several state agencies or offices. Efficient  
16 implementation of these efforts will be enhanced by promoting  
17 consolidation and integration of their activities and programs. In  
18 addition, consolidation of reporting benefits the public and decision  
19 makers regarding watershed health, which includes salmon recovery. It  
20 is also the intent of the legislature, in cooperation with local and  
21 regional officials, and respecting the ability of local citizens and  
22 officials to organize in ways best suited to address local needs, to  
23 encourage the development of incentives that consolidate existing  
24 processes and promote more effective implementation of salmon recovery  
25 plans and watershed planning and implementation.

26 **Sec. 2.** RCW 77.85.030 and 2007 c 444 s 3 are each amended to read  
27 as follows:

28 (1) The (~~governor's salmon recovery~~) office (~~is created within~~  
29 ~~the office of the governor to~~) shall coordinate state strategy to  
30 allow for salmon recovery to healthy sustainable population levels with  
31 productive commercial and recreational fisheries. (~~The~~) A primary  
32 purpose of the office is to coordinate and assist in the development,  
33 implementation, and revision of regional salmon recovery plans as an  
34 integral part of a statewide strategy developed consistent with the  
35 guiding principles and procedures under RCW 77.85.150.

36 (2) The (~~governor's salmon recovery~~) office is also responsible  
37 for maintaining the statewide salmon recovery strategy to reflect

1 applicable provisions of regional recovery plans, habitat protection  
2 and restoration plans, water quality plans, and other private, local,  
3 regional, state agency and federal plans, projects, and activities that  
4 contribute to salmon recovery.

5 (3) The (~~governor's salmon recovery office shall also gather~~  
6 ~~regional recovery plans from regional recovery organizations and submit~~  
7 ~~the plans to the federal fish services for adoption as federal recovery~~  
8 ~~plans. The governor's salmon recovery~~) office shall also work with  
9 regional salmon recovery organizations on salmon recovery issues in  
10 order to ensure a coordinated and consistent statewide approach to  
11 salmon recovery(~~. The governor's salmon recovery office~~) and shall  
12 work with federal agencies to accomplish implementation of federal  
13 commitments in the recovery plans.

14 (4) The (~~governor's salmon recovery~~) office may also:

15 (a) Assist state agencies, local governments, landowners, and other  
16 interested parties in obtaining federal assurances that plans,  
17 programs, or activities are consistent with fish recovery under the  
18 federal endangered species act;

19 (b) Act as liaison to local governments, the state congressional  
20 delegation, the United States congress, federally recognized tribes,  
21 and the federal executive branch agencies for issues related to the  
22 state's salmon recovery plans;

23 (c) Provide periodic reports pursuant to RCW 77.85.020 (as  
24 recodified by this act);

25 (d) Provide, as appropriate, technical and administrative support  
26 to (~~the independent~~) science panels (~~or other science-related~~  
27 ~~panels~~) on issues pertaining to salmon recovery;

28 (e) In cooperation with the regional recovery organizations,  
29 prepare a timeline and implementation plan that, together with a  
30 schedule and recommended budget, identifies specific actions in  
31 regional recovery plans for state agency actions and assistance  
32 necessary to implement local and regional recovery plans; and

33 (f) As necessary, provide recommendations to the legislature that  
34 would further the success of salmon recovery, including recommendations  
35 for state agency actions in the succeeding biennium and state financial  
36 and technical assistance for projects and activities to be undertaken  
37 in local and regional salmon recovery plans. The recommendations may  
38 include:

1 (i) The need to expand or improve nonregulatory programs and  
2 activities; and

3 (ii) The need for state funding assistance to recovery activities  
4 and projects.

5 (5) (~~This section expires June 30, 2015.~~) The office shall  
6 administer all grant programs that support the functions of lead  
7 entities under RCW 77.85.050, in addition to the administration of  
8 funding for support of regional salmon recovery organizations under RCW  
9 77.85.110.

10 (6) By December 1, 2009, the office, in consultation with the  
11 department of ecology, the department of fish and wildlife, regional  
12 fisheries enhancement groups, lead entities, planning units and lead  
13 agencies, and regional salmon recovery organizations shall provide an  
14 assessment to the governor on additional coordination and incentive  
15 opportunities with lead entities, regional salmon recovery  
16 organizations, lead agencies, and WRIA planning units, and shall  
17 include any additional coordination and incentive opportunities for  
18 those organizations that exist and operate within a shared watershed  
19 boundary or portions of a shared watershed boundary.

20 (7) By December 1, 2009, the office and the office of regulatory  
21 assistance, working in coordination with the departments of ecology and  
22 fish and wildlife, must identify and recommend one pilot project  
23 outside of Puget Sound that will effectively integrate salmon recovery  
24 and watershed planning missions and objectives. The pilot project's  
25 purpose is to demonstrate ways to achieve efficient permitting  
26 processes to implement projects identified in local or regional salmon  
27 recovery or WRIA-based watershed plans.

28 **Sec. 3.** RCW 77.85.020 and 2007 c 444 s 2 are each amended to read  
29 as follows:

30 (1) (~~No later than January 31, 2009, and every odd-numbered year~~  
31 ~~until and including 2015, the governor's salmon recovery office shall~~  
32 ~~submit a biennial state of the salmon report to the legislature and the~~  
33 ~~governor regarding the implementation of the state's salmon recovery~~  
34 ~~strategy. The report must include the following:~~

35 (a) ~~A summary of habitat projects including but not limited to:~~

36 (i) ~~A summary of accomplishments in removing barriers to salmon~~  
37 ~~passage and an identification of existing barriers;~~

1       ~~(ii) A summary of salmon restoration efforts undertaken in the past~~  
2 ~~two years;~~  
3       ~~(iii) A summary of the role which private volunteer initiatives~~  
4 ~~contribute in salmon habitat restoration efforts; and~~  
5       ~~(iv) A summary of efforts taken to protect salmon habitat;~~  
6       ~~(b) A summary of harvest and hatchery management activities~~  
7 ~~affecting salmon recovery;~~  
8       ~~(c) A summary of the number and types of violations of existing~~  
9 ~~laws pertaining to salmon. The summary may include information about~~  
10 ~~the types of sanctions imposed for these violations.~~  
11       ~~(2) The report may include the following:~~  
12       ~~(a) A description of the amount of in-kind financial contributions,~~  
13 ~~including volunteer, private, state, federal, tribal, as available, and~~  
14 ~~local government funds directly spent on salmon recovery in response to~~  
15 ~~endangered species act listings; and~~  
16       ~~(b) Information on the estimated carrying capacity of new habitat~~  
17 ~~created pursuant to chapter 246, Laws of 1998.~~  
18       ~~(3) The report shall summarize the monitoring data coordinated by~~  
19 ~~the forum on monitoring salmon recovery and watershed health. The~~  
20 ~~summary may include but is not limited to data and analysis related to:~~  
21       ~~(a) Measures of progress in fish recovery;~~  
22       ~~(b) Measures of factors limiting recovery as well as trends in such~~  
23 ~~factors; and~~  
24       ~~(c) The status of implementation of projects and activities.~~  
25       ~~(4))~~ Beginning December 2010, the office shall produce a biennial  
26 report on the statewide status of salmon recovery and watershed health,  
27 summarize projects and programs funded by the salmon recovery funding  
28 board, and summarize progress as measured by high-level indicators and  
29 state agency compliance with applicable protocols established by the  
30 forum for monitoring salmon recovery and watershed health. The report  
31 must be a consolidation of the current reporting activities, including  
32 the salmon recovery funding board and the forum on monitoring salmon  
33 recovery and watershed health, on the status of salmon recovery and  
34 watershed health in Washington state, in accordance with RCW  
35 77.85.250(8) (as recodified by this act). The report shall also  
36 include a high-level status report on watershed planning efforts under  
37 chapter 90.82 RCW as summarized by the department of ecology and on  
38 salmon recovery and watershed planning as summarized by the Puget Sound

1 partnership. The report's introduction must include a list of high-  
2 level questions related to the status of watershed health and salmon  
3 recovery to help decision makers and the public respond to salmon  
4 recovery and watershed health management needs.

5 (2) The department of fish and wildlife, the department of ecology,  
6 the department of natural resources, the state conservation commission,  
7 and the forum on monitoring salmon recovery and watershed health shall  
8 provide to the ((governor's salmon recovery)) office information  
9 requested by the office necessary to prepare the ((state of the salmon  
10 report and other reports produced by the office)) consolidated report  
11 on salmon recovery and watershed health.

12 **Sec. 4.** RCW 77.85.250 and 2007 c 444 s 8 are each amended to read  
13 as follows:

14 (1) ~~((The legislature finds that pursuant to chapter 298, Laws of~~  
15 ~~2001, and acting upon recommendations of the state's independent~~  
16 ~~science panel, the monitoring oversight committee developed~~  
17 ~~recommendations for a comprehensive statewide strategy for monitoring~~  
18 ~~watershed health, with a focus upon salmon recovery, entitled *The*~~  
19 ~~*Washington Comprehensive Monitoring Strategy and Action Plan for*~~  
20 ~~*Watershed Health and Salmon Recovery.* The legislature further finds~~  
21 ~~that funding to begin implementing the strategy and action plan was~~  
22 ~~provided in the 2003-2005 biennial budget, and that executive order 04-~~  
23 ~~03 was issued to coordinate state agency implementation activities. It~~  
24 ~~is therefore the purpose of this section to adopt the strategy and~~  
25 ~~action plan and to provide guidance to ensure that the coordination~~  
26 ~~activities directed by executive order 04-03 are effectively carried~~  
27 ~~out.~~

28 (2)) The forum on monitoring salmon recovery and watershed health  
29 is created to implement *the Washington Comprehensive Monitoring*  
30 *Strategy and Action Plan for Watershed Health and Salmon Recovery.* The  
31 governor shall appoint a person with experience and expertise in  
32 natural resources and environmental quality monitoring to chair the  
33 forum. The chair shall serve four-year terms and may serve successive  
34 terms. The forum shall include representatives of the following state  
35 agencies and regional entities that have responsibilities related to  
36 monitoring of salmon recovery and watershed health:

37 (a) Department of ecology;

1 (b) Salmon recovery funding board;  
2 (c) (~~Salmon recovery office;~~  
3 ~~(d)~~) Department of fish and wildlife;  
4 (~~(e)~~) (d) Department of natural resources;  
5 (~~(f)~~) (e) Puget Sound (~~(action team, or a successor state~~  
6 ~~agency)~~) partnership;  
7 (~~(g)~~) (f) Conservation commission;  
8 (~~(h)~~) (g) Department of agriculture;  
9 (~~(i)~~) (h) Department of transportation; and  
10 (~~(j)~~) (i) Each of the regional salmon recovery organizations.  
11 (~~(3)~~) (2) The forum on monitoring salmon recovery and watershed  
12 health shall provide a multiagency venue for coordinating technical and  
13 policy issues and actions related to monitoring salmon recovery and  
14 watershed health.  
15 (~~(4)~~) (3) The forum on monitoring salmon recovery and watershed  
16 health shall recommend a set of (~~measures~~) high-level indicators for  
17 use by the (~~governor's salmon recovery~~) office in the state of the  
18 salmon report to convey results and progress on salmon recovery and  
19 watershed health in ways that are easily understood by the general  
20 public.  
21 (~~(5)~~) (4) The forum on monitoring salmon recovery and watershed  
22 health shall invite the participation of federal, tribal, regional, and  
23 local agencies and entities that carry out salmon recovery and  
24 watershed health monitoring, and work toward coordination and  
25 standardization of measures used.  
26 (~~(6)~~) (5) The forum on monitoring salmon recovery and watershed  
27 health shall periodically report to the governor and the appropriate  
28 standing committees of the senate and house of representatives on the  
29 forum's activities and recommendations for improving monitoring  
30 programs by state agencies(~~(, coordinating with the governor's salmon~~  
31 ~~recovery office biennial report as required by RCW 77.85.020)~~).  
32 (~~(7)~~) (6) The forum shall review pilot monitoring programs  
33 including those that integrate (a) data collection, management, and  
34 access; and (b) information regarding habitat projects and project  
35 management.  
36 (~~(8)~~) (7) The forum on monitoring salmon recovery and watershed  
37 health shall review and make recommendations to the office of financial  
38 management and the appropriate legislative committees on agency budget

1 requests related to monitoring salmon recovery and watershed health.  
2 These recommendations must be made no later than September 15th of each  
3 year. The goal of this review is to prioritize and integrate budget  
4 requests across agencies.

5 ~~((+9))~~ (8)(a) The forum on monitoring salmon recovery and  
6 watershed health shall adopt general high-level indicators for salmon  
7 recovery and watershed health in Washington by December 1, 2009. By  
8 July 1, 2010, the forum shall also adopt the protocols for monitoring  
9 these high-level indicators that will enable state conducted or state-  
10 funded monitoring efforts to be capable of reporting results that will  
11 ensure reporting consistency and agency compliance under the  
12 consolidated reporting requirement of this section. The forum on  
13 monitoring salmon recovery and watershed health shall indicate how the  
14 general high-level indicators are consistent with, and complement, the  
15 more detailed regional and local metrics used to measure watershed  
16 health and salmon recovery.

17 (b) High-level indicators shall inform a nontechnical summary of  
18 key metrics that indicate the state of salmon recovery and provide an  
19 index of watershed health in Washington.

20 (9) This section expires June 30, ~~((2015))~~ 2011.

21 NEW SECTION. Sec. 5. (1) By December 1, 2009, the department of  
22 ecology must provide recommendations to the legislature on grant  
23 programs related to restoration and protection of water quality and for  
24 increases, augmentation, or conservation of water quantity supplies  
25 that may be more effectively and efficiently funded through the salmon  
26 recovery funding board. The recommendations should include ways to  
27 integrate salmon recovery data into reporting of watershed health.

28 (2) This section expires December 31, 2009.

29 **Sec. 6.** RCW 77.85.140 and 2007 c 241 s 22 are each amended to read  
30 as follows:

31 (1) Habitat project lists shall be submitted to the salmon recovery  
32 funding board for funding at least once a year on a schedule  
33 established by the board. The board shall provide the legislature with  
34 a list of the proposed projects and a list of the projects funded by  
35 October 1st of each year for informational purposes. Project sponsors  
36 who complete salmon habitat projects approved for funding from habitat



1 project lists and have met grant application deadlines will be paid by  
2 the salmon recovery funding board within thirty days of project  
3 completion.

4 (2) The recreation and conservation office shall track all funds  
5 allocated for salmon habitat projects and salmon recovery activities on  
6 behalf of the board, including both funds allocated by the board and  
7 funds allocated by other state or federal agencies for salmon recovery  
8 or water quality improvement.

9 ~~((3) Beginning in December 2000, the board shall provide a  
10 biennial report to the governor and the legislature on salmon recovery  
11 expenditures. This report shall be coordinated with the state of the  
12 salmon report required under RCW 77.85.020.))~~

13 **Sec. 7.** RCW 77.85.005 and 2005 c 309 s 1 are each amended to read  
14 as follows:

15 The legislature finds that repeated attempts to improve salmonid  
16 fish runs throughout the state of Washington have failed to avert  
17 listings of salmon and steelhead runs as threatened or endangered under  
18 the federal endangered species act (16 U.S.C. Sec. 1531 et seq.).  
19 These listings threaten the sport, commercial, and tribal fishing  
20 industries as well as the economic well-being and vitality of vast  
21 areas of the state. It is the intent of the legislature to begin  
22 activities required for the recovery of salmon stocks as soon as  
23 possible, although the legislature understands that successful recovery  
24 efforts may not be realized for many years because of the life cycle of  
25 salmon and the complex array of natural and human-caused problems they  
26 face.

27 The legislature finds that it is in the interest of the citizens of  
28 the state of Washington for the state to retain primary responsibility  
29 for managing the natural resources of the state, rather than abdicate  
30 those responsibilities to the federal government, and that the state  
31 may best accomplish this objective by integrating local and regional  
32 recovery activities into a statewide strategy that can make the most  
33 effective use of provisions of federal laws allowing for a state lead  
34 in salmon recovery, delivered through implementation activities  
35 consistent with regional and watershed recovery plans. The legislature  
36 also finds that a statewide salmon recovery strategy must be developed  
37 and implemented through an active public involvement process in order

1 to ensure public participation in, and support for, salmon recovery.  
2 The legislature also finds that there is a substantial link between the  
3 provisions of the federal endangered species act and the federal clean  
4 water act (33 U.S.C. Sec. 1251 et seq.). The legislature further finds  
5 that habitat restoration is a vital component of salmon recovery  
6 efforts. Therefore, it is the intent of the legislature to  
7 specifically address salmon habitat restoration in a coordinated manner  
8 and to develop a structure that allows for the coordinated delivery of  
9 federal, state, and local assistance to communities for habitat  
10 projects that will assist in the recovery and enhancement of salmon  
11 stocks. A strong watershed-based locally implemented plan is essential  
12 for local, regional, and statewide salmon recovery.

13 The legislature also finds that credible scientific review and  
14 oversight is essential for any salmon recovery effort to be successful.

15 The legislature further finds that it is important to monitor the  
16 overall health of the salmon resource to determine if recovery efforts  
17 are providing expected returns. It is important to monitor salmon  
18 habitat projects and salmon recovery activities to determine their  
19 effectiveness in order to secure federal acceptance of the state's  
20 approach to salmon recovery. Adaptive management cannot exist without  
21 monitoring. For these reasons, the legislature believes that a  
22 coordinated and integrated monitoring system should be developed and  
23 implemented.

24 The legislature therefore finds that a coordinated framework for  
25 responding to the salmon crisis is needed immediately. To that end,  
26 (~~the salmon recovery office should be created within the governor's~~  
27 ~~office to provide overall coordination of the state's response~~) an  
28 independent science panel is needed to provide scientific review and  
29 oversight; a coordinated state funding process should be established  
30 through a salmon recovery funding board; the appropriate local or  
31 tribal government should provide local leadership in identifying and  
32 sequencing habitat projects to be funded by state agencies; habitat  
33 projects should be implemented without delay; and a strong locally  
34 based effort to restore salmon habitat should be established by  
35 providing a framework to allow citizen volunteers to work effectively.

36 NEW SECTION. **Sec. 8.** Nothing in this act is intended to amend  
37 chapter 90.71 RCW.

1        NEW SECTION.   **Sec. 9.**   RCW 77.85.020, 77.85.030, and 77.85.250 are  
2 each recodified as sections in chapter 79A.25 RCW.

3        NEW SECTION.   **Sec. 10.**   RCW 77.85.100 (Work group--Evaluation of  
4 mitigation alternatives) and 2000 c 107 s 100 & 1998 c 246 s 16 are  
5 each repealed.

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