

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5224

60th Legislature
2007 Regular Session

Passed by the Senate April 18, 2007
YEAS 44 NAYS 0

President of the Senate

Passed by the House April 17, 2007
YEAS 97 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5224** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5224

AS AMENDED BY THE HOUSE

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

By Senate Committee on Natural Resources, Ocean & Recreation
(originally sponsored by Senators Jacobsen, Rockefeller and Kilmer;
by request of Office of Financial Management)

READ FIRST TIME 03/07/07.

1 AN ACT Relating to the salmon recovery office; amending RCW
2 77.85.010, 77.85.020, 77.85.030, 77.85.040, 77.85.090, 77.85.150, and
3 43.41.270; adding a new section to chapter 77.85 RCW; providing an
4 effective date; providing expiration dates; and declaring an emergency.

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

6 **Sec. 1.** RCW 77.85.010 and 2005 c 309 s 2 are each amended to read
7 as follows:

8 The definitions in this section apply throughout this chapter
9 unless the context clearly requires otherwise.

10 (1) "Adaptive management" means reliance on scientific methods to
11 test the results of actions taken so that the management and related
12 policy can be changed promptly and appropriately.

13 (2) "Critical pathways methodology" means a project scheduling and
14 management process for examining interactions between habitat projects
15 and salmonid species, prioritizing habitat projects, and assuring
16 positive benefits from habitat projects.

17 (3) "Habitat project list" is the list of projects resulting from
18 the critical pathways methodology under RCW 77.85.060(2). Each project
19 on the list must have a written agreement from the landowner on whose

1 land the project will be implemented. Projects include habitat
2 restoration projects, habitat protection projects, habitat projects
3 that improve water quality, habitat projects that protect water
4 quality, habitat-related mitigation projects, and habitat project
5 maintenance and monitoring activities.

6 (4) "Habitat work schedule" means those projects from the habitat
7 project list that will be implemented during the current funding cycle.
8 The schedule shall also include a list of the entities and individuals
9 implementing projects, the start date, duration, estimated date of
10 completion, estimated cost, and funding sources for the projects.

11 (5) "Limiting factors" means conditions that limit the ability of
12 habitat to fully sustain populations of salmon. These factors are
13 primarily fish passage barriers and degraded estuarine areas, riparian
14 corridors, stream channels, and wetlands.

15 (6) "Project sponsor" is a county, city, special district, tribal
16 government, state agency, a combination of such governments through
17 interlocal or interagency agreements, a nonprofit organization,
18 regional fisheries enhancement group, or one or more private citizens.
19 A project sponsored by a state agency may be funded by the board only
20 if it is included on the habitat project list submitted by the lead
21 entity for that area and the state agency has a local partner that
22 would otherwise qualify as a project sponsor.

23 (7) "Regional recovery organization" or "regional salmon recovery
24 organization" means an entity formed under RCW 77.85.090 for the
25 purpose of recovering salmon, which is recognized in statute or by the
26 governor's salmon recovery office created in RCW 77.85.030.

27 (8) "Salmon" includes all species of the family Salmonidae which
28 are capable of self-sustaining, natural production.

29 (9) "Salmon recovery plan" means a state or regional plan developed
30 in response to a proposed or actual listing under the federal
31 endangered species act that addresses limiting factors including, but
32 not limited to harvest, hatchery, hydropower, habitat, and other
33 factors of decline.

34 (10) "Salmon recovery region" means geographic areas of the state
35 identified or formed under RCW 77.85.090 that encompass groups of
36 watersheds in the state with common stocks of salmon identified for
37 recovery activities, and that generally are consistent with the

1 geographic areas within the state identified by the national oceanic
2 and atmospheric administration or the United States fish and wildlife
3 service for activities under the federal endangered species act.

4 (11) "Salmon recovery strategy" means the strategy adopted under
5 RCW 77.85.150 and includes the compilation of all subbasin and regional
6 salmon recovery plans developed in response to a proposed or actual
7 listing under the federal endangered species act with state hatchery,
8 harvest, and hydropower plans compiled in accordance with RCW
9 77.85.150.

10 (12) "Tribe" or "tribes" means federally recognized Indian tribes.

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

13 (14) "Owner" means the person holding title to the land or the
14 person under contract with the owner to lease or manage the legal
15 owner's property.

16 **Sec. 2.** RCW 77.85.020 and 2005 c 309 s 3 are each amended to read
17 as follows:

18 (1) (~~By December 1, 2006~~) No later than January 31, 2009, and
19 every odd-numbered year until and including 2015, the governor's salmon
20 recovery office shall submit a biennial state of the salmon report to
21 the legislature and the governor regarding the implementation of the
22 state's salmon recovery strategy. The report (~~may~~) must include the
23 following:

24 (~~(a) (A description of the amount of in-kind and financial~~
25 ~~contributions, including volunteer, private, and state, federal, tribal~~
26 ~~as available, and local government money directly spent on salmon~~
27 ~~recovery in response to actual, proposed, or expected endangered~~
28 ~~species act listings;~~

29 ~~(b))~~) A summary of habitat projects including but not limited to:

30 (i) A summary of accomplishments in removing barriers to salmon
31 passage and an identification of existing barriers;

32 (ii) A summary of salmon restoration efforts undertaken in the past
33 two years;

34 (iii) A summary of the role which private volunteer initiatives
35 contribute in salmon habitat restoration efforts; and

36 (iv) A summary of efforts taken to protect salmon habitat;

1 ~~((c) A summary of collaborative efforts undertaken with adjoining~~
2 ~~states or Canada;~~

3 ~~(d))~~ (b) A summary of harvest and hatchery management activities
4 affecting salmon recovery;

5 ~~((e) A summary of information regarding impediments to successful~~
6 ~~salmon recovery efforts;~~

7 ~~(f))~~ (c) A summary of the number and types of violations of
8 existing laws pertaining to ~~((: (i) Water quality; and (ii))~~ salmon.
9 The summary ~~((shall))~~ may include information about the types of
10 sanctions imposed for these violations ~~((;~~

11 ~~(g) Information on the estimated carrying capacity of new habitat~~
12 ~~created pursuant to chapter 246, Laws of 1998; and~~

13 ~~(h) Recommendations to the legislature that would further the~~
14 ~~success of salmon recovery. The recommendations may include:~~

15 ~~(i) The need to expand or improve nonregulatory programs and~~
16 ~~activities;~~

17 ~~(ii) The need to expand or improve state and local laws and~~
18 ~~regulations; and~~

19 ~~(iii) Recommendations for state funding assistance to recovery~~
20 ~~activities and projects)).~~

21 (2) The report may include the following:

22 (a) A description of the amount of in-kind financial contributions,
23 including volunteer, private, state, federal, tribal, as available, and
24 local government funds directly spent on salmon recovery in response to
25 endangered species act listings; and

26 (b) Information on the estimated carrying capacity of new habitat
27 created pursuant to chapter 246, Laws of 1998.

28 (3) The report shall summarize the monitoring data coordinated by
29 the ~~((monitoring))~~ forum on monitoring salmon recovery and watershed
30 health. The summary ~~((must))~~ may include but is not limited to data
31 and analysis related to:

32 (a) Measures of progress in fish recovery;

33 (b) Measures of factors limiting recovery as well as trends in such
34 factors; and

35 (c) The status of implementation of projects and activities.

36 (4) The department, the department of ecology, the department of
37 natural resources, the state conservation commission, and the forum on
38 monitoring salmon recovery and watershed health shall provide to the

1 governor's salmon recovery office information requested by the office
2 necessary to prepare the state of the salmon report and other reports
3 produced by the office.

4 **Sec. 3.** RCW 77.85.030 and 2005 c 309 s 4 are each amended to read
5 as follows:

6 (1) The governor's salmon recovery office is created within the
7 office of the governor to coordinate state strategy to allow for salmon
8 recovery to healthy sustainable population levels with productive
9 commercial and recreational fisheries. The primary purpose of the
10 office is to coordinate and assist in the development, implementation,
11 and revision of regional salmon recovery plans as an integral part of
12 a statewide strategy developed consistent with the guiding principles
13 and procedures under RCW 77.85.150.

14 (2) The governor's salmon recovery office is responsible for
15 maintaining the statewide salmon recovery strategy to reflect
16 applicable provisions of regional recovery plans, habitat protection
17 and restoration plans, water quality plans, and other private, local,
18 regional, state agency and federal plans, projects, and activities that
19 contribute to salmon recovery.

20 (3) The governor's salmon recovery office shall also gather
21 regional recovery plans from regional recovery organizations and submit
22 the plans to the federal fish services for adoption as federal recovery
23 plans. The governor's salmon recovery office shall also work with
24 regional salmon recovery organizations on salmon recovery issues in
25 order to ensure a coordinated and consistent statewide approach to
26 salmon recovery. The governor's salmon recovery office shall work with
27 federal agencies to accomplish implementation of federal commitments in
28 the recovery plans.

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

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

34 (b) Act as liaison to local governments, the state congressional
35 delegation, the United States congress, federally recognized tribes,
36 and the federal executive branch agencies for issues related to the
37 state's salmon recovery plans; (~~and~~)

1 (c) Provide periodic reports pursuant to RCW 77.85.020;

2 (d) Provide, as appropriate, technical and administrative support
3 to the independent science panel or other science-related panels on
4 issues pertaining to salmon recovery;

5 (e) In cooperation with the regional recovery organizations,
6 prepare a timeline and implementation plan that, together with a
7 schedule and recommended budget, identifies specific actions in
8 regional recovery plans for state agency actions and assistance
9 necessary to implement local and regional recovery plans; and

10 (f) As necessary, provide recommendations to the legislature that
11 would further the success of salmon recovery, including recommendations
12 for state agency actions in the succeeding biennium and state financial
13 and technical assistance for projects and activities to be undertaken
14 in local and regional salmon recovery plans. The recommendations may
15 include:

16 (i) The need to expand or improve nonregulatory programs and
17 activities; and

18 (ii) The need for state funding assistance to recovery activities
19 and projects.

20 ~~((+2))~~ (5) This section expires June 30, ~~((2007))~~ 2015.

21 **Sec. 4.** RCW 77.85.040 and 2005 c 309 s 5 are each amended to read
22 as follows:

23 (1) The governor ~~((shall))~~ may request the ~~((national))~~ Washington
24 academy of sciences, ~~((the American fisheries society, or a comparable~~
25 institution to screen candidates to serve as members on the)) when
26 organized pursuant to chapter 305, Laws of 2005, to impanel an
27 independent science panel on salmon recovery to respond to requests for
28 review pursuant to subsection (2) of this section. ~~((The institution~~
29 that conducts the screening of the candidates shall submit a list of
30 the nine most qualified candidates to the governor, the speaker of the
31 house of representatives, and the majority leader of the senate.)) The
32 ~~((candidates))~~ panel shall reflect expertise in habitat requirements of
33 salmon, protection and restoration of salmon populations, artificial
34 propagation of salmon, hydrology, or geomorphology.

35 ~~((+2) The speaker of the house of representatives and the majority~~
36 ~~leader in the senate may each remove one name from the nomination list.~~

1 ~~The governor shall consult with tribal representatives and the governor~~
2 ~~shall appoint five scientists from the remaining names on the~~
3 ~~nomination list.~~

4 ~~(3) The members of the independent science panel shall serve four-~~
5 ~~year terms. Vacant positions on the panel shall be filled in the same~~
6 ~~manner as the original appointments. Members shall serve no more than~~
7 ~~two full terms. The independent science panel members shall elect the~~
8 ~~chair of the panel among themselves every two years.))~~ Based upon
9 available funding, the governor's salmon recovery office may contract
10 for services ~~((with members))~~ of the independent science panel for
11 compensation under chapter 39.29 RCW.

12 ~~((4))~~ (2) The independent science panel shall be governed by
13 ~~((generally accepted))~~ guidelines and practices governing the
14 activities of ~~((independent science boards such as))~~ the ~~((national))~~
15 Washington academy of sciences. The purpose of the independent science
16 panel is to help ensure that sound science is used in salmon recovery
17 efforts. The governor's salmon recovery office may, during the time it
18 is constituted, request ~~((review of regional salmon recovery plans by~~
19 ~~the science review panel))~~ that the panel review, investigate, and
20 provide its findings on scientific questions relating to the state's
21 salmon recovery efforts. The science panel does not have the authority
22 to review individual projects or habitat project lists developed under
23 RCW 77.85.050 or 77.85.060 or to make policy decisions. The panel
24 shall ~~((periodically))~~ submit its findings and recommendations under
25 this subsection to the legislature and the governor.

26 **Sec. 5.** RCW 77.85.090 and 2005 c 309 s 7 are each amended to read
27 as follows:

28 (1) The southwest Washington salmon recovery region, whose
29 boundaries are provided in chapter 60, Laws of 1998, is created.

30 (2) Lead entities within a salmon recovery region that agree to
31 form a regional salmon recovery organization may be recognized by the
32 governor's salmon recovery office created in RCW 77.85.030, during the
33 time it is constituted, as a regional recovery organization. The
34 regional recovery organization may plan, coordinate, and monitor the
35 implementation of a regional recovery plan in accordance with RCW
36 77.85.150. Regional recovery organizations existing as of July 24,
37 2005, that have developed draft recovery plans approved by the

1 governor's salmon recovery office by July 1, 2005, may continue to
2 plan, coordinate, and monitor the implementation of regional recovery
3 plans.

4 **Sec. 6.** RCW 77.85.150 and 2005 c 309 s 9 are each amended to read
5 as follows:

6 (1) The governor shall, with the assistance of the governor's
7 salmon recovery office, (~~shall~~) during the time it is constituted,
8 maintain and revise, as appropriate, a statewide salmon recovery
9 strategy.

10 (2) The governor and the salmon recovery office shall be guided by
11 the following considerations in maintaining and revising the strategy:

12 (a) The strategy should identify statewide initiatives and
13 responsibilities with regional recovery plans and local watershed
14 initiatives as the principal means for implementing the strategy;

15 (b) The strategy should emphasize collaborative, incentive-based
16 approaches;

17 (c) The strategy should address all factors limiting the recovery
18 of Washington's listed salmon stocks, including habitat and water
19 quality degradation, harvest and hatchery management, inadequate
20 streamflows, and other barriers to fish passage. Where other limiting
21 factors are beyond the state's jurisdictional authorities to respond
22 to, such as some natural predators and high seas fishing, the strategy
23 shall include the state's requests for federal action to effectively
24 address these factors;

25 (d) The strategy should identify immediate actions necessary to
26 prevent extinction of a listed salmon stock, establish performance
27 measures to determine if restoration efforts are working, recommend
28 effective monitoring and data management, and recommend to the
29 legislature clear and certain measures to be implemented if performance
30 goals are not met;

31 (e) The strategy shall rely on the best scientific information
32 available and provide for incorporation of new information as it is
33 obtained;

34 (f) The strategy should seek a fair allocation of the burdens and
35 costs upon economic and social sectors of the state whose activities
36 may contribute to limiting the recovery of salmon; and

1 (g) The strategy should seek clear measures and procedures from the
2 appropriate federal agencies for removing Washington's salmon stocks
3 from listing under the federal act.

4 (3) (~~Beginning on September 1, 2000,~~) If the strategy (~~shall~~
5 ~~be~~) is updated (~~through~~), an active and thorough public involvement
6 process, including early and meaningful opportunity for public comment,
7 must be utilized. In obtaining public comment, the governor's salmon
8 recovery office shall (~~hold public meetings~~) work with regional
9 salmon recovery organizations throughout the state and shall encourage
10 regional and local recovery planning efforts to (~~similarly~~) ensure an
11 active public involvement process.

12 (4) This section shall apply prospectively only and not
13 retroactively. Nothing in this section shall be construed to
14 invalidate actions taken in recovery planning at the local, regional,
15 or state level prior to July 1, 1999.

16 **Sec. 7.** RCW 43.41.270 and 2001 c 227 s 2 are each amended to read
17 as follows:

18 (1) The office of financial management shall assist natural
19 resource-related agencies in developing outcome-focused performance
20 measures for administering natural resource-related and environmentally
21 based grant and loan programs. These performance measures are to be
22 used in determining grant eligibility, for program management and
23 performance assessment.

24 (2) The office of financial management and the governor's salmon
25 recovery office, during the time it is constituted, shall assist
26 natural resource-related agencies in developing recommendations for a
27 monitoring program to measure outcome-focused performance measures
28 required by this section. The recommendations must be consistent with
29 the framework and coordinated monitoring strategy developed by the
30 monitoring oversight committee established in RCW 77.85.210.

31 (3) Natural resource agencies shall consult with grant or loan
32 recipients including local governments, tribes, nongovernmental
33 organizations, and other interested parties, and report to the office
34 of financial management on the implementation of this section. (~~The~~
35 ~~office of financial management shall report to the appropriate~~
36 ~~legislative committees of the legislature on the agencies'~~
37 ~~implementation of this section, including any necessary changes in~~

1 current law, and funding requirements by July 31, 2002. Natural
2 resource agencies shall assist the office of financial management in
3 preparing the report, including complying with time frames for
4 submitting information established by the office of financial
5 management.))

6 (4) For purposes of this section, "natural resource-related
7 agencies" include the department of ecology, the department of natural
8 resources, the department of fish and wildlife, the state conservation
9 commission, the interagency committee for outdoor recreation, the
10 salmon recovery funding board, and the public works board within the
11 department of community, trade, and economic development.

12 (5) For purposes of this section, "natural resource-related
13 environmentally based grant and loan programs" includes the
14 conservation reserve enhancement program; dairy nutrient management
15 grants under chapter 90.64 RCW; state conservation commission water
16 quality grants under chapter 89.08 RCW; coordinated prevention grants,
17 public participation grants, and remedial action grants under RCW
18 70.105D.070; water pollution control facilities financing under chapter
19 70.146 RCW; aquatic lands enhancement grants under RCW ((79.24.580))
20 79.105.150; habitat grants under the Washington wildlife and recreation
21 program under RCW 79A.15.040; salmon recovery grants under chapter
22 77.85 RCW; and the public ((work[s])) works trust fund program under
23 chapter 43.155 RCW. The term also includes programs administered by
24 the department of fish and wildlife related to protection or recovery
25 of fish stocks which are funded with moneys from the capital budget.

26 NEW SECTION. Sec. 8. A new section is added to chapter 77.85 RCW
27 to read as follows:

28 (1) The legislature finds that pursuant to chapter 298, Laws of
29 2001, and acting upon recommendations of the state's independent
30 science panel, the monitoring oversight committee developed
31 recommendations for a comprehensive statewide strategy for monitoring
32 watershed health, with a focus upon salmon recovery, entitled *The*
33 *Washington Comprehensive Monitoring Strategy and Action Plan for*
34 *Watershed Health and Salmon Recovery*. The legislature further finds
35 that funding to begin implementing the strategy and action plan was
36 provided in the 2003-2005 biennial budget, and that executive order 04-
37 03 was issued to coordinate state agency implementation activities. It

1 is therefore the purpose of this section to adopt the strategy and
2 action plan and to provide guidance to ensure that the coordination
3 activities directed by executive order 04-03 are effectively carried
4 out.

5 (2) The forum on monitoring salmon recovery and watershed health is
6 created. The governor shall appoint a person with experience and
7 expertise in natural resources and environmental quality monitoring to
8 chair the forum. The chair shall serve four-year terms and may serve
9 successive terms. The forum shall include representatives of the
10 following state agencies and regional entities that have
11 responsibilities related to monitoring of salmon recovery and watershed
12 health:

- 13 (a) Department of ecology;
- 14 (b) Salmon recovery funding board;
- 15 (c) Salmon recovery office;
- 16 (d) Department of fish and wildlife;
- 17 (e) Department of natural resources;
- 18 (f) Puget Sound action team, or a successor state agency;
- 19 (g) Conservation commission;
- 20 (h) Department of agriculture;
- 21 (i) Department of transportation; and
- 22 (j) Each of the regional salmon recovery organizations.

23 (3) The forum on monitoring salmon recovery and watershed health
24 shall provide a multiagency venue for coordinating technical and policy
25 issues and actions related to monitoring salmon recovery and watershed
26 health.

27 (4) The forum on monitoring salmon recovery and watershed health
28 shall recommend a set of measures for use by the governor's salmon
29 recovery office in the state of the salmon report to convey results and
30 progress on salmon recovery and watershed health in ways that are
31 easily understood by the general public.

32 (5) The forum on monitoring salmon recovery and watershed health
33 shall invite the participation of federal, tribal, regional, and local
34 agencies and entities that carry out salmon recovery and watershed
35 health monitoring, and work toward coordination and standardization of
36 measures used.

37 (6) The forum on monitoring salmon recovery and watershed health
38 shall periodically report to the governor and the appropriate standing

1 committees of the senate and house of representatives on the forum's
2 activities and recommendations for improving monitoring programs by
3 state agencies, coordinating with the governor's salmon recovery office
4 biennial report as required by RCW 77.85.020.

5 (7) The forum shall review pilot monitoring programs including
6 those that integrate (a) data collection, management, and access; and
7 (b) information regarding habitat projects and project management.

8 (8) The forum on monitoring salmon recovery and watershed health
9 shall review and make recommendations to the office of financial
10 management and the appropriate legislative committees on agency budget
11 requests related to monitoring salmon recovery and watershed health.
12 These recommendations must be made no later than September 15th of each
13 year. The goal of this review is to prioritize and integrate budget
14 requests across agencies.

15 (9) This section expires June 30, 2015.

16 NEW SECTION. **Sec. 9.** Section 3 of this act is necessary for the
17 immediate preservation of the public peace, health, or safety, or
18 support of the state government and its existing public institutions,
19 and takes effect June 30, 2007.

--- END ---