
HOUSE BILL 1076

State of Washington

68th Legislature

2023 Regular Session

By Representative Klicker

Prefiled 12/23/22.

1 AN ACT Relating to encouraging salmon recovery through voluntary
2 stewardship; amending RCW 36.70A.080 and 36.70A.280; adding new
3 sections to chapter 36.70A RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature intends to provide a
6 voluntary option for cities and counties planning to incorporate
7 salmon recovery into their planning under the growth management act.
8 The legislature intends to do this in a way that provides for
9 meaningful and measurable improvement in the protection and
10 enhancement of habitat for anadromous fish. The legislature intends
11 to do this without increasing the liability of cities and counties
12 and their taxpayers, and in a way that encourages rather than
13 discourages the voluntary participation of private landowners in
14 projects that will improve habitat in a watershed.

15 **Sec. 2.** RCW 36.70A.080 and 2011 c 318 s 801 are each amended to
16 read as follows:

17 (1) A comprehensive plan may include additional elements, items,
18 or studies dealing with other subjects relating to the physical
19 development within its jurisdiction((~~r~~)) including, but not limited
20 to:

- 1 (a) Conservation;
- 2 (b) Solar energy; (~~and~~)
- 3 (c) Recreation; and
- 4 (d) Salmon recovery.

5 (2) A comprehensive plan may include, where appropriate, subarea
6 plans, each of which is consistent with the comprehensive plan.

7 (3)(a) Cities that qualify as a receiving city may adopt a
8 comprehensive plan element and associated development regulations
9 that apply within receiving areas under chapter 39.108 RCW.

10 (b) For purposes of this subsection, the terms "receiving city"
11 and "receiving area" have the same meanings as provided in RCW
12 39.108.010.

13 NEW SECTION. **Sec. 3.** A new section is added to chapter 36.70A
14 RCW to read as follows:

15 (1) If a city or county chooses to adopt an optional salmon
16 recovery element within its comprehensive plan pursuant to RCW
17 36.70A.080, the salmon recovery element must comply with this section
18 and sections 4 through 8 of this act.

19 (2) As part of an optional salmon recovery element, a county or
20 city must develop a work plan that is designed to result in an
21 improvement in anadromous fish habitat. The work plan may address,
22 among other elements, in-water and upland habitats, vegetation, water
23 quantity, water quality, and other natural features within the county
24 or city that contribute to anadromous fish habitat on a watershed
25 basis, including applicable elements of salmon recovery plans adopted
26 pursuant to the federal endangered species act. The work plan must
27 include goals and benchmarks for the protection and enhancement of
28 the natural features within the county or city that contribute to
29 anadromous fish habitat on a watershed basis. In developing and
30 implementing the work plan, the county or city must:

31 (a) Review and incorporate applicable water quality, watershed
32 management, and species recovery data and plans, including the
33 applicable elements of salmon recovery plans adopted pursuant to the
34 endangered species act;

35 (b) Seek input from tribes, agencies, and stakeholders;

36 (c) Develop goals for participation by landowners in the county
37 or city necessary to meet the protection and enhancement benchmarks
38 of the work plan;

1 (d) Ensure outreach and technical assistance is provided to
2 landowners in the county or city;

3 (e) Create measurable benchmarks that, within 10 years after the
4 receipt of funding, are designed to result in the protection and
5 enhancement of the functions and values of the natural features that
6 contribute to anadromous fish habitat on a watershed basis through
7 voluntary, incentive-based measures;

8 (f) Designate the entity or entities that will provide technical
9 assistance;

10 (g) Work with the entity providing technical assistance to ensure
11 that individual stewardship plans contribute to the goals and
12 benchmarks of the work plan;

13 (h) Incorporate into the work plan any existing development
14 regulations relied upon to achieve the goals and benchmarks for
15 protection;

16 (i) Establish baseline monitoring for: (i) Participation
17 activities and implementation of the voluntary salmon recovery plans
18 and projects; (ii) stewardship activities; and (iii) existing
19 environmental conditions related to the functions and values of the
20 natural features that contribute to anadromous fish habitat on a
21 watershed basis;

22 (j) Conduct periodic evaluations, institute adaptive management,
23 and provide a written report of the status of plans and
24 accomplishments to the department of fish and wildlife within 60 days
25 after the end of each biennium; and

26 (k) Assist state agencies in their monitoring programs.

27 (3) (a) The county or city shall develop and submit the work plan
28 to the department of fish and wildlife for approval as provided in
29 section 4 of this act.

30 (b) (i) Not later than five years after the receipt of funding for
31 a participating county or city, and every five years thereafter, the
32 county or city must report to the department of fish and wildlife on
33 whether it has met the work plan's protection and enhancement goals
34 and benchmarks.

35 (ii) If the county or city determines the protection and
36 enhancement goals and benchmarks have been met, and the department of
37 fish and wildlife concurs under section 5 of this act, the county or
38 city shall continue to implement the work plan.

39 (iii) If the county or city determines the protection and
40 enhancement goals and benchmarks have not been met, it must propose

1 and submit to the department of fish and wildlife an adaptive
2 management plan to achieve the goals and benchmarks that were not
3 met. The adaptive management plan must identify what additional
4 voluntary actions are needed to meet the benchmarks and must identify
5 the funding necessary to implement these actions. If the department
6 of fish and wildlife does not approve the adaptive management plan
7 under section 5 of this act, the watershed is subject to the
8 provisions of section 6 of this act.

9 (iv) The county or city must implement the actions identified in
10 the adaptive management plan when funding is provided.

11 (4) Following approval of a work plan, a county or city may
12 request that a state or federal agency, or both, focus existing
13 enforcement authority in that county or city, if the action will
14 facilitate progress toward achieving work plan protection goals and
15 benchmarks.

16 (5) Landowners participating in the program are eligible to
17 receive funding and assistance under the voluntary salmon recovery
18 program.

19 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.70A
20 RCW to read as follows:

21 (1)(a) Upon receipt of a work plan submitted to the department of
22 fish and wildlife under section 3 of this act, the department of fish
23 and wildlife must submit the work plan to the salmon recovery
24 technical panel for review.

25 (b) For the purposes of this section, the "salmon recovery
26 technical panel" means the directors or director designees of the
27 following agencies: The department of fish and wildlife, the
28 department of ecology, the conservation commission, and the
29 recreation and conservation office.

30 (2) The salmon recovery technical panel shall review the work
31 plan and report to the department of fish and wildlife within 90 days
32 after the department of fish and wildlife receives the work plan. The
33 salmon recovery technical panel shall assess whether, on a more
34 probable than not basis, at the end of 10 years after receipt of
35 funding, the work plan, in conjunction with other existing plans and
36 regulations, will protect and enhance functions and values of the
37 natural features within the county or city that contribute to
38 anadromous fish habitat on a watershed basis.

1 (3) (a) If the salmon recovery technical panel determines the
2 proposed work plan will protect and enhance functions and values of
3 the natural features that contribute to anadromous fish habitat on a
4 watershed basis within the county or city:

5 (i) It must recommend approval of the work plan; and

6 (ii) The department of fish and wildlife must approve the work
7 plan.

8 (b) If the salmon recovery technical panel determines the
9 proposed work plan will not protect and enhance functions and values
10 of the natural features within the county or city that contribute to
11 anadromous fish habitat on a watershed basis:

12 (i) It must identify the reasons for its determination; and

13 (ii) The department of fish and wildlife must advise the county
14 or city of the reasons for disapproval.

15 (4) The county or city may, within 180 days of receipt of the
16 reasons for the panel's determination, modify and resubmit its work
17 plan for review and approval consistent with this section.

18 (5) If the department of fish and wildlife does not approve a
19 work plan submitted under this section within two years and nine
20 months after receipt of funding, the department of fish and wildlife
21 shall submit the work plan to the statewide salmon recovery advisory
22 committee for resolution. If the statewide salmon recovery advisory
23 committee recommends approval, the department of fish and wildlife
24 must approve the work plan.

25 (6) If the department of fish and wildlife does not approve a
26 work plan for a county or city within three years after receipt of
27 funding, the provisions of section 6 of this act apply to the county
28 or city.

29 NEW SECTION. **Sec. 5.** A new section is added to chapter 36.70A
30 RCW to read as follows:

31 (1) If the department of fish and wildlife, following receipt of
32 a report pursuant to section 3 of this act, concludes that the work
33 plan goals and benchmarks for enhancement and protection have not
34 been met, the department of fish and wildlife must consult with the
35 statewide salmon recovery advisory committee for a recommendation on
36 how to proceed. If the department of fish and wildlife, acting upon
37 recommendation from the statewide salmon recovery advisory committee,
38 determines that the county or city is likely to meet the goals and
39 benchmarks with an additional six months of planning and

1 implementation time, the department of fish and wildlife shall grant
2 an extension. If the department of fish and wildlife, acting upon a
3 recommendation from the statewide salmon recovery advisory committee,
4 determines that the county or city is unlikely to meet the goals and
5 benchmarks within six months, the county or city is subject to the
6 provisions of section 6 of this act.

7 (2) A county or city that fails to meet its goals and benchmarks
8 for enhancement and protection within the six-month time extension
9 under subsection (1) of this section is subject to the provisions of
10 section 6 of this act.

11 NEW SECTION. **Sec. 6.** A new section is added to chapter 36.70A
12 RCW to read as follows:

13 (1) Within 18 months after one of the events in subsection (2) of
14 this section, a county or city must:

15 (a) Develop, adopt, and implement a county or city work plan
16 approved by the department of fish and wildlife that protects and
17 enhances functions and values of the natural features within the
18 county or city that contribute to anadromous fish habitat on a
19 watershed basis. The department of fish and wildlife must approve the
20 work plan if it determines, on a more probable than not basis, that
21 the work plan will, in conjunction with other existing plans and
22 regulations, protect and enhance functions and values of the natural
23 features within the county or city that contribute to anadromous fish
24 habitat on a watershed basis. The department of fish and wildlife
25 shall consult with the departments of commerce and ecology, the
26 recreation and conservation office, the conservation commission, and
27 other relevant state agencies before approving or disapproving the
28 proposed work plan. The department of fish and wildlife's decision
29 under this subsection is subject to appeal under RCW 36.70A.280;

30 (b) Adopt development regulations certified by the department of
31 fish and wildlife as protective of natural features within the county
32 or city that contribute to anadromous fish habitat on a watershed
33 basis. The county or city may submit existing or amended regulations
34 for certification. The department of fish and wildlife must make its
35 decision on whether to certify the development regulations within 90
36 days after the county or city submits its request. If the department
37 of fish and wildlife denies the certification, the county or city
38 shall take an action under (a) or (c) of this subsection. The
39 department of fish and wildlife must consult with the departments of

1 commerce and ecology, the recreation and conservation office, and the
2 conservation commission, before making a certification under this
3 section. The appeal of the department of fish and wildlife's decision
4 under this subsection (1)(b) is subject to appeal under RCW
5 36.70A.280; or

6 (c) Review and, if necessary, revise development regulations
7 adopted under this chapter to protect natural features within the
8 county or city that contribute to anadromous fish habitat on a
9 watershed basis.

10 (2) A participating county or city is subject to this section if:

11 (a) The work plan is not approved by the department of fish and
12 wildlife as provided in section 4 of this act;

13 (b) The work plan's goals and benchmarks for enhancement and
14 protection have not been met as provided in section 3 of this act;

15 (c) The department of fish and wildlife has determined, under
16 section 7 of this act, that the county or city, department of fish
17 and wildlife, conservation commission, recreation and conservation
18 office, or departments of ecology or commerce have not received
19 adequate funding to implement a salmon recovery program in the county
20 or city; or

21 (d) The adaptive management plan is not approved by the
22 department of fish and wildlife as provided in section 3 of this act.

23 (3) A county or city may not be found to be in noncompliance with
24 the requirements of RCW 36.70A.060 if the department of fish and
25 wildlife has determined that the county or city has not received
26 adequate funding to implement a salmon recovery program in the county
27 or city.

28 (4) The department of fish and wildlife shall adopt rules to
29 implement subsection (1)(a) and (c) of this section.

30 NEW SECTION. **Sec. 7.** A new section is added to chapter 36.70A
31 RCW to read as follows:

32 (1) By July 31, 2026, the department of fish and wildlife shall:

33 (a) In consultation with each county or city that has elected
34 under section 3 of this act to participate in the voluntary salmon
35 recovery program, determine which participating counties and cities
36 received adequate funding to establish and implement the program in a
37 participating county or city by July 1, 2026; and

38 (b) In consultation with other state agencies, for each
39 participating county or city, determine whether state agencies

1 required to take action under the provisions of sections 3 through 7
2 of this act have received adequate funding to support the program by
3 July 1, 2026.

4 (2) By July 31, 2028, and every two years thereafter, in
5 consultation with each county and city that has elected under section
6 3 of this act to participate in the program and other state agencies,
7 the department of fish and wildlife shall determine for each
8 participating county or city whether adequate funding to implement
9 the program was provided during the preceding biennium as provided in
10 subsection (1) of this section.

11 (3) If the department of fish and wildlife determines under
12 subsection (1) or (2) of this section that a participating county or
13 city has not received adequate funding, the county or city is subject
14 to the provisions of section 6 of this act.

15 (4) In consultation with the statewide salmon recovery advisory
16 committee and other state agencies, not later than August 31, 2026,
17 and each August 31st every two years thereafter, the department of
18 fish and wildlife shall report to the legislature and each county or
19 city that has elected under section 3 of this act to participate in
20 the program on the progress toward improvements in anadromous fish
21 habitat made by participating counties and cities that have received
22 adequate funding to establish and implement the program.

23 NEW SECTION. **Sec. 8.** A new section is added to chapter 36.70A
24 RCW to read as follows:

25 (1)(a) From the nominations made under (b) of this subsection,
26 the department of fish and wildlife shall appoint a statewide salmon
27 recovery advisory committee, consisting of: Two persons representing
28 county government, two persons representing city government, and two
29 persons representing community interests. The committee, in
30 conjunction with the governor's office, shall also invite
31 participation by two representatives of tribal governments.

32 (b) Organizations representing county, city, and community
33 interests shall submit nominations of their representatives to the
34 department of fish and wildlife within 90 days of July 30, 2023.
35 Members of the statewide salmon recovery advisory committee shall
36 serve two-year terms, except that for the first year one
37 representative from each of the sectors shall be appointed to the
38 statewide salmon recovery advisory committee for a term of one year.
39 Members may be reappointed by the department of fish and wildlife for

1 additional two-year terms and replacement members shall be appointed
2 in accordance with the process for selection of the initial members
3 of the statewide salmon recovery advisory committee.

4 (c) Upon notification of the department of fish and wildlife by
5 an appointed member, the appointed member may designate a person to
6 serve as an alternate.

7 (d) The director of the department of fish and wildlife shall
8 serve as a nonvoting chair of the statewide salmon recovery advisory
9 committee.

10 (e) Members of the statewide salmon recovery advisory committee
11 shall serve without compensation and, unless serving as a state
12 officer or employee, are not eligible for reimbursement for
13 subsistence, lodging, and travel expenses under RCW 43.03.050 and
14 43.03.060.

15 (2) The role of the statewide salmon recovery advisory committee
16 is to advise the department of fish and wildlife and other agencies
17 involved in development and operation of the voluntary salmon
18 recovery program including, but not limited to:

19 (a) Evaluation and resolution of work plans submitted to the
20 committee by the department of fish and wildlife pursuant to section
21 4(5) of this act;

22 (b) Recommendations regarding extensions of time by which
23 counties and cities must meet the goals and benchmarks of work plans
24 pursuant to section 5(1) of this act; and

25 (c) Consultation with the department of fish and wildlife
26 regarding the progress toward improvements in anadromous fish habitat
27 made by participating counties and cities that have received adequate
28 funding to establish and implement the program.

29 **Sec. 9.** RCW 36.70A.280 and 2011 c 360 s 17 are each amended to
30 read as follows:

31 (1) The growth management hearings board shall hear and determine
32 only those petitions alleging either:

33 (a) That, except as provided otherwise by this subsection, a
34 state agency, county, or city planning under this chapter is not in
35 compliance with the requirements of this chapter, chapter 90.58 RCW
36 as it relates to the adoption of shoreline master programs or
37 amendments thereto, or chapter 43.21C RCW as it relates to plans,
38 development regulations, or amendments, adopted under RCW 36.70A.040
39 or chapter 90.58 RCW(~~(. Nothing in this subsection authorizes the~~

1 board to hear petitions alleging noncompliance with RCW
2 36.70A.5801));

3 (b) That the twenty-year growth management planning population
4 projections adopted by the office of financial management pursuant to
5 RCW 43.62.035 should be adjusted;

6 (c) That the approval of a work plan adopted under RCW
7 36.70A.735(1)(a) is not in compliance with the requirements of the
8 program established under RCW 36.70A.710;

9 (d) That regulations adopted under RCW 36.70A.735(1)(b) are not
10 regionally applicable and cannot be adopted, wholly or partially, by
11 another jurisdiction; ((~~or~~))

12 (e) That a department certification under RCW 36.70A.735(1)(c) is
13 erroneous; or

14 (f) That a department of fish and wildlife approval under section
15 6(1)(a) of this act, or a department of fish and wildlife
16 certification under section 6(1)(b) of this act, is erroneous.

17 (2) A petition may be filed only by: (a) The state, or a county
18 or city that plans under this chapter; (b) a person who has
19 participated orally or in writing before the county or city regarding
20 the matter on which a review is being requested; (c) a person who is
21 certified by the governor within sixty days of filing the request
22 with the board; or (d) a person qualified pursuant to RCW 34.05.530.

23 (3) For purposes of this section "person" means any individual,
24 partnership, corporation, association, state agency, governmental
25 subdivision or unit thereof, or public or private organization or
26 entity of any character.

27 (4) To establish participation standing under subsection (2)(b)
28 of this section, a person must show that his or her participation
29 before the county or city was reasonably related to the person's
30 issue as presented to the board.

31 (5) When considering a possible adjustment to a growth management
32 planning population projection prepared by the office of financial
33 management, the board shall consider the implications of any such
34 adjustment to the population forecast for the entire state.

35 The rationale for any adjustment that is adopted by the board
36 must be documented and filed with the office of financial management
37 within ten working days after adoption.

38 If adjusted by the board, a county growth management planning
39 population projection shall only be used for the planning purposes
40 set forth in this chapter and shall be known as the "board adjusted

1 population projection." None of these changes shall affect the
2 official state and county population forecasts prepared by the office
3 of financial management, which shall continue to be used for state
4 budget and planning purposes.

--- **END** ---