
HOUSE BILL 2503

State of Washington

66th Legislature

2020 Regular Session

By Representatives Barkis, Blake, Walsh, and Young

1 AN ACT Relating to the removal of fish passage barriers; amending
2 RCW 77.95.160; reenacting and amending RCW 43.84.092; adding a new
3 section to chapter 47.04 RCW; adding a new section to chapter 46.68
4 RCW; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature recognizes that the Brian
7 Abbott fish barrier removal board is the state entity tasked with
8 determining fish barrier removal projects that provide quality
9 habitat that are likely to result in improved salmon runs. The
10 legislature declares if it is going to invest billions of dollars in
11 fish barrier removals pursuant to a court order that the funding must
12 be allocated in a manner to provide actual improved habitat for fish
13 first. For this reason, the legislature is providing a role for the
14 fish passage barrier removal board in the process the department of
15 transportation uses to remove fish barriers on state-owned land with
16 the expectation that there will be watershed improvements, not just
17 correction to barriers where no fish benefit. The legislature finds
18 that the Washington state department of transportation is an expert
19 on building transportation projects not on the needs of fish, and
20 requires the department to use a list made in conjunction with the
21 fish passage barrier removal board in its efforts to improve fish

1 habitat and comply with the federal court injunction in *United States*
2 *v. Washington*.

3 **Sec. 2.** RCW 77.95.160 and 2014 c 120 s 4 are each amended to
4 read as follows:

5 (1) The department shall maintain a fish passage barrier removal
6 board. The board must be composed of a representative from the
7 department, the department of transportation, cities, counties, the
8 governor's salmon recovery office, tribal governments, and the
9 department of natural resources. The representative of the department
10 must serve as chair of the board and may expand the membership of the
11 board to representatives of other governments, stakeholders, and
12 interested entities.

13 (2)(a) The duty of the board is to identify and expedite the
14 removal of human-made or caused impediments to anadromous fish
15 passage in the most efficient manner practical through the
16 development of a coordinated approach and schedule that identifies
17 and prioritizes the projects necessary to eliminate fish passage
18 barriers caused by state and local roads and highways and barriers
19 owned by private parties.

20 (b) The coordinated approach must address fish passage barrier
21 removals in all areas of the state in a manner that is consistent
22 with a recognition that scheduling and prioritization is necessary.

23 (c) The board must coordinate and mutually share information,
24 when appropriate, with:

25 (i) Other fish passage correction programs, including local
26 salmon recovery plan implementation efforts through the governor's
27 salmon recovery office;

28 (ii) The applicable conservation districts when developing
29 schedules and priorities within set geographic areas or counties;
30 ((and))

31 (iii) The recreation and conservation office to ensure that
32 barrier removal methodologies are consistent with, and maximizing the
33 value of, other salmon recovery efforts and habitat improvements that
34 are not primarily based on the removal of barriers; and

35 (iv) Tribal governments to the extent they are willing to
36 participate and choose to share information about tribal salmon
37 recovery efforts, including fish passage barrier removal.

38 (d) Recommendations must include proposed funding mechanisms and
39 other necessary mechanisms and methodologies to coordinate state,

1 tribal, local, and volunteer barrier removal efforts within each
2 water resource inventory area and satisfy the principles of RCW
3 77.95.180. To the degree practicable, the board must utilize the
4 database created in RCW 77.95.170 and information on fish barriers
5 developed by conservation districts to guide methodology development.
6 The board may consider recommendations by interested entities from
7 the private sector and regional fisheries enhancement groups.

8 (e) When developing a prioritization methodology under this
9 section, the board shall consider:

10 (i) Projects benefiting depressed, threatened, and endangered
11 stocks;

12 (ii) Projects providing access to available and high quality
13 spawning and rearing habitat;

14 (iii) Correcting the lowest barriers within the stream first;

15 (iv) Whether an existing culvert is a full or partial barrier;

16 (v) Projects that are coordinated with other adjacent barrier
17 removal projects; and

18 (vi) Projects that address replacement of infrastructure
19 associated with flooding, erosion, or other environmental damage.

20 (f) The board may not make decisions on fish passage standards or
21 categorize as impassible culverts or other infrastructure
22 developments that have been deemed passable by the department.

23 (3) (a) By August 31st of every even-numbered year until 2031, the
24 department of transportation must provide a proposed list of fish
25 passage barrier removals on land owned or managed by the state
26 department of transportation. The list must identify which barriers
27 are within the area subject to the federal court injunction in *United*
28 *States v. Washington*. The board must review and prepare a prioritized
29 list for the department of transportation of fish passage barrier
30 removal projects on land owned, managed by, or related to the
31 department of transportation by December 1st of the same year. This
32 may include barriers on roads owned by political subdivisions of the
33 state that block fish passage below a department of transportation-
34 owned or managed barrier that is on the list to be removed or
35 corrected during the biennium.

36 (b) The state department of transportation may only undertake
37 fish passage barrier removal projects on the prioritized list
38 provided by the board pursuant to (a) of this subsection, fish
39 passage barrier removal projects necessary for completion of another
40 state department of transportation project, or as otherwise directed

1 by the legislature in statute or in the biennial operating, capital,
2 or transportation omnibus appropriations acts.

3 NEW SECTION. **Sec. 3.** A new section is added to chapter 47.04
4 RCW to read as follows:

5 Until December 31, 2030, the department may only undertake fish
6 passage barrier removal projects on the prioritized list provided by
7 the board pursuant to RCW 77.95.160(3), fish passage barrier removal
8 projects necessary for completion of another state department of
9 transportation project, or as otherwise directed by the legislature
10 in statute or in the biennial operating, capital, or transportation
11 omnibus appropriations acts.

12 NEW SECTION. **Sec. 4.** A new section is added to chapter 46.68
13 RCW to read as follows:

14 (1) The fish passage barrier removal account is created in the
15 state treasury. Moneys in the account may be spent only after
16 appropriation.

17 (2) The legislature may appropriate moneys in the account only to
18 the department of transportation for the purpose of capital and
19 operating expenditures directly related to the removal of fish
20 passage barriers on land owned or managed by the state department of
21 transportation or for fish passage barrier removal projects directly
22 related to the removal of fish passage barriers undertaken by the
23 state department of transportation as directed by the fish passage
24 barrier removal board pursuant to RCW 77.95.160(3).

25 **Sec. 5.** RCW 43.84.092 and 2019 c 421 s 15, 2019 c 403 s 14, 2019
26 c 365 s 19, 2019 c 287 s 19, and 2019 c 95 s 6 are each reenacted and
27 amended to read as follows:

28 (1) All earnings of investments of surplus balances in the state
29 treasury shall be deposited to the treasury income account, which
30 account is hereby established in the state treasury.

31 (2) The treasury income account shall be utilized to pay or
32 receive funds associated with federal programs as required by the
33 federal cash management improvement act of 1990. The treasury income
34 account is subject in all respects to chapter 43.88 RCW, but no
35 appropriation is required for refunds or allocations of interest
36 earnings required by the cash management improvement act. Refunds of
37 interest to the federal treasury required under the cash management

1 improvement act fall under RCW 43.88.180 and shall not require
2 appropriation. The office of financial management shall determine the
3 amounts due to or from the federal government pursuant to the cash
4 management improvement act. The office of financial management may
5 direct transfers of funds between accounts as deemed necessary to
6 implement the provisions of the cash management improvement act, and
7 this subsection. Refunds or allocations shall occur prior to the
8 distributions of earnings set forth in subsection (4) of this
9 section.

10 (3) Except for the provisions of RCW 43.84.160, the treasury
11 income account may be utilized for the payment of purchased banking
12 services on behalf of treasury funds including, but not limited to,
13 depository, safekeeping, and disbursement functions for the state
14 treasury and affected state agencies. The treasury income account is
15 subject in all respects to chapter 43.88 RCW, but no appropriation is
16 required for payments to financial institutions. Payments shall occur
17 prior to distribution of earnings set forth in subsection (4) of this
18 section.

19 (4) Monthly, the state treasurer shall distribute the earnings
20 credited to the treasury income account. The state treasurer shall
21 credit the general fund with all the earnings credited to the
22 treasury income account except:

23 (a) The following accounts and funds shall receive their
24 proportionate share of earnings based upon each account's and fund's
25 average daily balance for the period: The abandoned recreational
26 vehicle disposal account, the aeronautics account, the aircraft
27 search and rescue account, the Alaskan Way viaduct replacement
28 project account, the brownfield redevelopment trust fund account, the
29 budget stabilization account, the capital vessel replacement account,
30 the capitol building construction account, the Cedar River channel
31 construction and operation account, the Central Washington University
32 capital projects account, the charitable, educational, penal and
33 reformatory institutions account, the Chehalis basin account, the
34 cleanup settlement account, the Columbia river basin water supply
35 development account, the Columbia river basin taxable bond water
36 supply development account, the Columbia river basin water supply
37 revenue recovery account, the common school construction fund, the
38 community forest trust account, the connecting Washington account,
39 the county arterial preservation account, the county criminal justice
40 assistance account, the deferred compensation administrative account,

1 the deferred compensation principal account, the department of
2 licensing services account, the department of licensing tuition
3 recovery trust fund, the department of retirement systems expense
4 account, the developmental disabilities community trust account, the
5 diesel idle reduction account, the drinking water assistance account,
6 the drinking water assistance administrative account, the early
7 learning facilities development account, the early learning
8 facilities revolving account, the Eastern Washington University
9 capital projects account, the education construction fund, the
10 education legacy trust account, the election account, the electric
11 vehicle account, the energy freedom account, the energy recovery act
12 account, the essential rail assistance account, The Evergreen State
13 College capital projects account, the federal forest revolving
14 account, the ferry bond retirement fund, the fish passage barrier
15 removal account, the freight mobility investment account, the freight
16 mobility multimodal account, the grade crossing protective fund, the
17 public health services account, the state higher education
18 construction account, the higher education construction account, the
19 highway bond retirement fund, the highway infrastructure account, the
20 highway safety fund, the hospital safety net assessment fund, the
21 industrial insurance premium refund account, the Interstate 405 and
22 state route number 167 express toll lanes account, the judges'
23 retirement account, the judicial retirement administrative account,
24 the judicial retirement principal account, the local leasehold excise
25 tax account, the local real estate excise tax account, the local
26 sales and use tax account, the marine resources stewardship trust
27 account, the medical aid account, the mobile home park relocation
28 fund, the money-purchase retirement savings administrative account,
29 the money-purchase retirement savings principal account, the motor
30 vehicle fund, the motorcycle safety education account, the multimodal
31 transportation account, the multiuse roadway safety account, the
32 municipal criminal justice assistance account, the natural resources
33 deposit account, the oyster reserve land account, the pension funding
34 stabilization account, the perpetual surveillance and maintenance
35 account, the pollution liability insurance agency underground storage
36 tank revolving account, the public employees' retirement system plan
37 1 account, the public employees' retirement system combined plan 2
38 and plan 3 account, the public facilities construction loan revolving
39 account beginning July 1, 2004, the public health supplemental
40 account, the public works assistance account, the Puget Sound capital

1 construction account, the Puget Sound ferry operations account, the
2 Puget Sound Gateway facility account, the Puget Sound taxpayer
3 accountability account, the real estate appraiser commission account,
4 the recreational vehicle account, the regional mobility grant program
5 account, the resource management cost account, the rural arterial
6 trust account, the rural mobility grant program account, the rural
7 Washington loan fund, the sexual assault prevention and response
8 account, the site closure account, the skilled nursing facility
9 safety net trust fund, the small city pavement and sidewalk account,
10 the special category C account, the special wildlife account, the
11 state employees' insurance account, the state employees' insurance
12 reserve account, the state investment board expense account, the
13 state investment board commingled trust fund accounts, the state
14 patrol highway account, the state route number 520 civil penalties
15 account, the state route number 520 corridor account, the state
16 wildlife account, the statewide broadband account, the statewide
17 tourism marketing account, the student achievement council tuition
18 recovery trust fund, the supplemental pension account, the Tacoma
19 Narrows toll bridge account, the teachers' retirement system plan 1
20 account, the teachers' retirement system combined plan 2 and plan 3
21 account, the tobacco prevention and control account, the tobacco
22 settlement account, the toll facility bond retirement account, the
23 transportation 2003 account (nickel account), the transportation
24 equipment fund, the transportation future funding program account,
25 the transportation improvement account, the transportation
26 improvement board bond retirement account, the transportation
27 infrastructure account, the transportation partnership account, the
28 traumatic brain injury account, the tuition recovery trust fund, the
29 University of Washington bond retirement fund, the University of
30 Washington building account, the voluntary cleanup account, the
31 volunteer firefighters' and reserve officers' relief and pension
32 principal fund, the volunteer firefighters' and reserve officers'
33 administrative fund, the vulnerable roadway user education account,
34 the Washington judicial retirement system account, the Washington law
35 enforcement officers' and firefighters' system plan 1 retirement
36 account, the Washington law enforcement officers' and firefighters'
37 system plan 2 retirement account, the Washington public safety
38 employees' plan 2 retirement account, the Washington school
39 employees' retirement system combined plan 2 and 3 account, the
40 Washington state health insurance pool account, the Washington state

1 patrol retirement account, the Washington State University building
2 account, the Washington State University bond retirement fund, the
3 water pollution control revolving administration account, the water
4 pollution control revolving fund, the Western Washington University
5 capital projects account, the Yakima integrated plan implementation
6 account, the Yakima integrated plan implementation revenue recovery
7 account, and the Yakima integrated plan implementation taxable bond
8 account. Earnings derived from investing balances of the agricultural
9 permanent fund, the normal school permanent fund, the permanent
10 common school fund, the scientific permanent fund, the state
11 university permanent fund, and the state reclamation revolving
12 account shall be allocated to their respective beneficiary accounts.

13 (b) Any state agency that has independent authority over accounts
14 or funds not statutorily required to be held in the state treasury
15 that deposits funds into a fund or account in the state treasury
16 pursuant to an agreement with the office of the state treasurer shall
17 receive its proportionate share of earnings based upon each account's
18 or fund's average daily balance for the period.

19 (5) In conformance with Article II, section 37 of the state
20 Constitution, no treasury accounts or funds shall be allocated
21 earnings without the specific affirmative directive of this section.

--- END ---