

I recognize there are some communities in the state that are dissatisfied with recent incorporation decisions of boundary review boards. However, I am not convinced that the answer to this problem is simply to eliminate the board's authority in this critical area. One of the purposes of Chapter 36.93, which created boundary review boards, was to provide a method to guide and control the creation and growth of municipalities in metropolitan areas. By deleting the boards' authority over incorporations, the purpose of this act would be frustrated.

The State has a legitimate interest in ensuring that municipal boundaries are rational and that statutory objectives are adhered to in the incorporation process. The authority of boundary review boards to review and act on incorporations is the established method of achieving that goal. Without such authority, there is some risk of proliferation of small municipalities and governmental fragmentation at the local level. Additionally, annexations often need to be amended to ensure they do not just include the property tax rich area while excluding poorer valuation residential areas which require public services.

Neighboring jurisdictions are usually affected directly by municipal incorporations. Review of these actions by boundary review boards ensures that multi-jurisdictional issues are considered before a vote is taken.

Notwithstanding the concerns with sections 1 and 2 of the bill, I recognize that boundary review boards may not be the best approach for all counties to address these important growth issues. For that reason, I requested legislation this session (House Bill No. 1174) that would provide a mechanism for the dissolution of boundary review boards if a local government service agreement is in place. That bill has not yet been acted upon by the Legislature.

With the exception of sections 1 and 2, Substitute Senate Bill No. 5127 is approved."

CHAPTER 85

[Senate Bill No. 5156]

CEDAR RIVER SOCKEYE SALMON ENHANCEMENT PROJECT

AN ACT Relating to Cedar river sockeye salmon; adding new sections to chapter 75.52 RCW; creating new sections; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature hereby designates the Cedar river sockeye salmon enhancement project as a "Washington state centennial salmon venture."

NEW SECTION. Sec. 2. The legislature recognizes that King county has a unique urban setting for a recreational fishery and that Lake Washington and the rivers flowing into it should be developed for greater salmon production. A Lake Washington fishery is accessible to fifty percent of the state's citizens by automobile in less than one hour. There has been extensive sockeye fishing success in Lake Washington, primarily from fish originating in the Cedar river. The legislature intends to enhance the Cedar river fishery by active state and local management and intends to maximize the Lake Washington sockeye salmon runs for recreational fishing for all of the citizens of the state. A sockeye enhancement program could produce two to three times the current numbers of returning adults. A sockeye enhancement project would increase the public's appreciation of our state's

fisheries, would demonstrate the role of a clean environment, and would show that positive cooperation can exist between local and state government in planning and executing programs that directly serve the public. A spawning channel in the Cedar river has been identified as an excellent way to enhance the Lake Washington sockeye run. A public utility currently diverting water from the Cedar river for beneficial public use has expressed willingness to fund the planning, design, evaluation, construction, and operation of a spawning channel on the Cedar river.

NEW SECTION. Sec. 3. A salmon spawning channel shall be constructed on the Cedar river with the assistance and cooperation of the state department of fisheries. The department shall use existing personnel and the volunteer fisheries enhancement program outlined under chapter 75.52 RCW to assist in the planning, construction, and operation of the spawning channel.

NEW SECTION. Sec. 4. The department of fisheries shall chair a technical committee, which shall review the preparation of enhancement plans and construction designs for a Cedar river sockeye spawning channel. The technical committee shall consist of not more than eight members: One representative each from the department of fisheries, national marine fisheries service, United States fish and wildlife service, and Muckleshoot Indian tribe; and four representatives from the public utility described in section 6 of this act. The technical committee will be guided by a policy committee, also to be chaired by the department of fisheries, which shall consist of not more than six members: One representative from the department of fisheries, one from the Muckleshoot Indian tribe, and one from either the national marine fisheries service or the United States fish and wildlife service; and three representatives from the public utility described in section 6 of this act. The policy committee shall present a progress report to the senate and house of representatives natural resources and environment committees by January 1, 1990, and shall oversee the operation and evaluation of the spawning channel. The policy committee will continue its oversight until the policy committee concludes that the channel is meeting the production goals specified in section 5 of this act.

NEW SECTION. Sec. 5. The channel shall be designed to produce, at a minimum, fry comparable in quality to those produced in the Cedar river and equal in number to what could be produced naturally by the estimated two hundred sixty-two thousand adults that could have spawned upstream of the Landsburg diversion. Construction of the spawning channel shall commence no later than September 1, 1990. Initial construction size shall be adequate to produce fifty percent or more of the production goal specified in this section.

NEW SECTION. Sec. 6. The legislature recognizes that, if funding for planning, design, evaluation, construction, and operating expenses is

provided by a public utility that diverts water for beneficial public use, and if the performance of the spawning channel meets the production goals described in section 5 of this act, the spawning channel project will serve, at a minimum, as compensation for lost sockeye salmon spawning habitat upstream of the Landsburg diversion. The amount of funding to be supplied by said utility will fully fund the total cost of planning, design, evaluation, and construction of the spawning channel.

NEW SECTION. Sec. 7. In order to provide operation and maintenance funds for the facility authorized by this act, the utility shall place two million five hundred thousand dollars in the state general fund Cedar river channel construction and operation account herein created. The interest from the fund shall be used for operation and maintenance of the spawning channel and any unused interest shall be added to the fund to increase the principal to cover possible future operation cost increases. The state treasurer may invest funds from the account as provided by law.

***NEW SECTION.** Sec. 8. *The state department of fisheries, the state department of ecology, all other state agencies, and local governments shall expedite all required permits for construction and operation of the spawning channel.*

*Sec. 8 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 9. The legislature hereby declares that the construction of the Cedar river sockeye spawning channel is in the best interests of the state of Washington.

NEW SECTION. Sec. 10. Should the requirements of this act not be met, the department of fisheries shall seek immediate legal clarification of the steps which must be taken to fully mitigate water diversion projects on the Cedar river.

NEW SECTION. Sec. 11. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

***NEW SECTION.** Sec. 12. *This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.*

*Sec. 12 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 13. Sections 3 through 9 of this act are each added to chapter 75.52 RCW.

Passed the Senate February 15, 1989.

Passed the House April 6, 1989.

Approved by the Governor April 20, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 20, 1989.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 8 and 12, Senate Bill No. 5156, entitled:

"AN ACT Relating to Cedar River sockeye salmon."

The concept behind this bill is to provide a mechanism to mitigate for the sockeye salmon habitat losses caused by the Landsburg diversion dam. Embodied in the concept of mitigation is that the complete cost, including the long-term operation and maintenance of the mitigation project, shall be borne by the party with the responsibility to mitigate. In this case, the City of Seattle has agreed not only to fund all phases leading up to and including construction, but also to deposit \$2.5 million in a trust account so that interest can be used to fund operation and maintenance.

The acceptability of this project to the State to fully mitigate for the sockeye losses caused by the diversion dam shall be judged not only on the success of the spawning channel but also on whether the trust account is adequate to fully finance the long-term operation and maintenance of the channel. It is in the best interest of the City of Seattle to negotiate with the State on methods which could reduce the expenditures from this trust account, so that in the future the fund is sufficient to cover inflationary costs as well as unanticipated costs.

I feel strongly that the decision-making process leading up to the construction of the spawning channel must recognize the relationship between the State and the Muckleshoot Tribe. The process must involve the Tribe in the planning, design, construction and operation of the spawning channel. This project can proceed only so long as consistent with the protection of treaty fishing rights. Finally, it should be noted that any decision made by the State pursuant to this legislation does not affect claims the Muckleshoot Tribe may have against the City of Seattle for damages to the Cedar River fisheries resources.

The expedition of permits in section 8 implies that state agencies are somehow above the permitting processes. This policy sends an inappropriate message that the review should be preferential or incomplete. The emergency clause in section 12 is not warranted by any exigent circumstances.

I believe this legislation, with the exception of sections 8 and 12, is an example of a process, that if successful, will enhance fishing opportunities in this state and will address a current impediment to increasing the Cedar River sockeye run.

Therefore, with the exception of sections 8 and 12, Senate Bill No. 5156 is approved."

CHAPTER 86

[Senate Bill No. 6012]

SCHOOLS—REVENUES DERIVED FROM REAL PROPERTY—DEPOSIT

AN ACT Relating to the leasing of surplus school property; and amending RCW 28A-58.033 and 28A.58.035.

Be it enacted by the Legislature of the State of Washington: