

pay the district for its cost in providing the service or otherwise be compensated for its cost for such service.

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CHAPTER 161

[Engrossed Senate Bill No. 3002]

SCENIC RIVER SYSTEM

AN ACT Relating to scenic rivers; and adding a new chapter to Title 79 RCW.

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

NEW SECTION. Section 1. The legislature hereby finds that many rivers of this state, with their immediate environs, possess outstanding natural, scenic, historic, ecological, and recreational values of present and future benefit to the public. The legislature further finds that the policy of permitting the construction of dams and other impoundment facilities at appropriate sections of the rivers of this state needs to be complemented by a policy that would protect and preserve the natural character of such rivers and fulfill other conservation purposes. It is hereby declared to be the policy of this state that certain selected rivers of the state which, with their immediate environs, possess the aforementioned characteristics, shall be preserved in as natural a condition as practical and that overuse of such rivers, which tends to downgrade their natural condition, shall be discouraged.

The purpose of this chapter is to establish a program for managing publicly owned land on rivers included in the state's scenic river system, to indicate the river segments to be initially included in that system, to prescribe a procedure for adding additional components to the system, and to protect the rights of private property owners.

NEW SECTION. Sec. 2. The following terms when used in this chapter shall be defined as follows unless the context clearly requires otherwise:

(1) "Department" means state parks and recreation commission.

(2) "Committee of participating agencies" or "committee" means a committee composed of the executive head, or such executive's designee, of each of the state departments of ecology, fisheries, game, natural resources, and highways, the state parks and recreation commission, the interagency committee for outdoor recreation, the Washington state association of counties, and the association of Washington cities.

When a specific river or river segment of the state's scenic river system is being considered by the committee, a representative of each participating local government associated with that river or river segment shall serve as a member of the committee.

(3) "Participating local government" means the legislative authority of any city or county, a portion of whose territorial jurisdiction is bounded by or includes a river or river segment of the state's scenic river system.

(4) "River" means a flowing body of water or a section, segment, or portion thereof.

(5) "River area" means a river and the land area in its immediate environs as established by the participating agencies not exceeding a width of one-quarter mile landward from the streamway on either side of the river.

(6) "Scenic easement" means the negotiated right to control the use of land, including the air space above such land, for the purpose of protecting the scenic view throughout the visual corridor.

(7) "Streamway" means that stream-dependent corridor of single or multiple, wet or dry, channel or channels within which the usual seasonal or stormwater runoff peaks are contained, and within which environment the flora, fauna, soil, and topography is dependent on or influenced by the height and velocity of the fluctuating river currents.

(8) "System" means all the rivers and river areas in the state designated by the legislature for inclusion as scenic rivers but does not include tributaries of a designated river unless specifically included by the legislature. The inclusion of a river in the system does not mean that other rivers or tributaries in a drainage basin shall be required to be part of the management program developed for the system unless such rivers and tributaries within the drainage basin are specifically designated for inclusion by the legislature.

(9) "Visual corridor" means that area which can be seen in a normal summer month by a person of normal vision walking either bank of a river included in the system. Such corridor shall not exceed the river area.

NEW SECTION. Sec. 3. (1) The department shall develop and adopt management policies for publicly owned or leased land on the rivers designated by the legislature as being a part of the state's scenic river system and within the associated river areas. The department may adopt regulations identifying river classifications which reflect the characteristics common to various segments of scenic rivers and may adopt management policies consistent with local government's shoreline management master plans appropriate for each such river classification. All such policies shall be subject to review by the committee of participating agencies. Once such a policy has been approved by a majority vote of the committee members, it shall be adopted by the department in accordance with the provisions of chapter 34.04 RCW, as now or hereafter amended. Any variance with such a policy by any public agency shall be authorized only by the approval of the committee of participating agencies by majority vote, and shall be made only to alleviate unusual hardships unique to a given segment of the system.

(2) Any policies developed pursuant to subsection (1) of this section shall include management plans for protecting ecological, economic, recreational, aesthetic, botanical, scenic, geological, hydrological, fish and wildlife, historical, cultural, archaeological, and scientific features of the rivers designated as being in the system. Such policies shall also include management plans to encourage any non-profit group, organization, association, person, or corporation to develop and adopt programs for the purpose of increasing fish propagation.

(3) The committee of participating agencies shall, by two-thirds majority vote, identify on a river by river basis any publicly owned or leased lands which could be

included in a river area of the system but which are developed in a manner unsuitable for land to be managed as part of the system. The department shall exclude lands so identified from the provisions of any management policies implementing the provisions of this act.

(4) The committee of participating agencies, by majority vote, shall determine the boundaries which shall define the river area associated with any included river. With respect to the rivers named in section 8 of this act, the committee shall make such determination, and those determinations authorized by subsection (3) of this section, within one year of the effective date of this act.

(5) Before making a decision regarding the river area to be included in the system, a variance in policy, or the excluding of land from the provisions of the management policies, the committee shall hold hearings in accord with chapter 34.04 RCW, with at least one public hearing to be held in the general locale of the river under consideration. The department shall cause to be published in a newspaper of general circulation in the area which includes the river or rivers to be considered, a description, including a map showing such river or rivers, of the material to be considered at the public hearing. Such notice shall appear at least twice in the time period between two and four weeks prior to the public hearing.

(6) Meetings of the committee shall be called by the department or by written petition signed by five or more of the committee members. The chairman of the parks and recreation commission or the chairman's designee shall serve as the chairman of any meetings of the committee held to implement the provisions of this act.

The committee shall seek and receive comments from the public regarding potential additions to the system, shall initiate studies, and may, through the department, submit to any session of the legislature proposals for additions to the state scenic river system. These proposals shall be accompanied by a detailed report on the factors which, in the committee's judgment, make an area a worthy addition to the system.

NEW SECTION. Sec. 4. (1) The management program for the system shall be administered by the department. The department shall have the responsibility for coordinating the development of the program between affected state agencies and participating local governments, and shall develop and adopt rules and regulations, in accord with chapter 34.04 RCW, for each portion of the system, which shall implement the management policies. In developing rules and regulations for a specific river in the system, the department shall hold at least one public hearing in the general locale of the river under consideration. The department shall cause a brief summary of the proposed rules and regulations to be published twice in a newspaper of general circulation in the area which includes the river to be considered in the period of time between two and four weeks prior to the public hearing. In addition to the foregoing required publication, the department shall also provide notice of the hearings, rules, regulations, and decisions of the department to radio and television stations and major local newspapers in the areas which include the river to be considered.

(2) In addition to any other powers granted to carry out the intent of this chapter, the department is authorized, subject to approval by majority vote of the members of the committee, to: (a) Purchase, within the river area, real property in

fee or any lesser right or interest in real property including, but not limited to scenic easements and future development rights, visual corridors, wildlife habitats, unique ecological areas, historical sites, camping and picnic areas, boat launching sites, and/or easements abutting the river for the purpose of preserving or enhancing the river or facilitating the use of the river by the public for fishing, boating and other water related activities; and (b) purchase, outside of a river area, public access to the river area.

The right of eminent domain shall not be utilized in any purchase made pursuant to this section.

(3) The department is further authorized to: (a) Acquire by gift, devise, grant, or dedication the fee, an option to purchase, a right of first refusal or any other lesser right or interest in real property and upon acquisition such real property shall be held and managed within the scenic river system; and (b) accept grants, contributions, or funds from any agency, public or private, or individual for the purposes of this chapter.

(4) The department is hereby vested with the power to obtain injunctions and other appropriate relief against violations of any provisions of this chapter and any rules and regulations adopted under this section or agreements made under the provisions of this chapter.

NEW SECTION. Sec. 5. (1) All state government agencies and local governments are hereby directed to pursue policies with regard to their respective activities, functions, powers, and duties which are designed to conserve and enhance the conditions of rivers which have been included in the system, in accordance with the management policies and the rules and regulations adopted by the department for such rivers. Local agencies are directed to pursue such policies with respect to all lands in the river area owned or leased by such local agencies. Nothing in this chapter shall authorize the modification of a shoreline management plan adopted by a local government and approved by the state pursuant to chapter 90.58 RCW without the approval of the department of ecology and local government. The policies adopted pursuant to this chapter shall be integrated, as fully as possible, with those of the shoreline management act of 1971.

(2) Nothing in this chapter shall grant to the committee of participating agencies or the department the power to restrict the use of private land without either the specific written consent of the owner thereof or the acquisition of rights in real property authorized by section 4 of this act.

(3) Nothing in this chapter shall prohibit the department of natural resources from exercising its full responsibilities and obligations for the management of state trust lands.

NEW SECTION. Sec. 6. Rivers of a scenic nature are eligible for inclusion in the system. Ideally, a scenic river:

- (1) Is free-flowing without diversions that hinder recreational use;
- (2) Has a streamway that is relatively unmodified by riprapping and other stream bank protection;
- (3) Has water of sufficient quality and quantity to be deemed worthy of protection;
- (4) Has a relatively natural setting and adequate open space;

(5) Requires some coordinated plan of management in order to enhance and preserve the river area; and

(6) Has some lands along its length already in public ownership, or the possibility for purchase or dedication of public access and/or scenic easements.

NEW SECTION. Sec. 7. Nothing contained in this act shall affect the authority of the department of fisheries and the department of game to construct facilities or make improvements to facilitate the passage or propagation of fish nor shall anything in this act be construed to interfere with the powers, duties, and authority of the department of fisheries or the department of game to regulate, manage, conserve, and provide for the harvest of fish or wildlife within any area designated as being in the state's scenic river system: PROVIDED, That no hunting shall be permitted in any state park.

NEW SECTION. Sec. 8. The following rivers of the state of Washington are hereby designated as being in the scenic river system of the state of Washington:

(1) The Skykomish river from the junction of the north and south forks of the Skykomish river:

(a) Downstream approximately fourteen miles to its junction with the Sultan river;

(b) Upstream approximately twenty miles on the south fork to the junction of the Tye and Foss rivers;

(c) Upstream approximately eleven miles on the north fork to its junction with Bear creek;

(2) The Beckler river from its junction with the south fork of the Skykomish river upstream approximately eight miles to its junction with Rapid river; and

(3) The Tye river from its junction with the south fork of the Skykomish river upstream approximately fourteen miles to Tye Lake.

NEW SECTION. Sec. 9. Nothing in this chapter shall preclude a section or segment of the state's scenic rivers included in the system from becoming a part of the national wild and scenic river system.

NEW SECTION. Sec. 10. No funds shall be expended from the game fund to carry out the provisions of this chapter.

NEW SECTION. Sec. 11. All funds for the implementation of this act as now or hereafter amended shall come from the general fund.

NEW SECTION. Sec. 12. If any provision of this act, or its application to any person of legal entity or circumstances, is held invalid, the remainder of the act, or the application of the provision to other persons or legal entities or circumstances, shall not be affected.

NEW SECTION. Sec. 13. Sections 1 through 11 of this act shall constitute a new chapter in Title 79 RCW.

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