



First Two Weeks: The Good and the Bad Bills

Every two weeks throughout session, we will send you information about Audubon Washington's top seven priorities, other bills to watch and which organizations are working those bills. If you want to take action on any of the bills, just use the information in BEV to contact your legislator.

Audubon Priorities:

Operating Budget

The state's budget is written in three stages: First, the Governor releases his budget in December. Then, this year, the Senate will write their version of the budget. And last, the House will write their version. Auduboners have a chance to influence the budget process at each step.

In the operating budget, we were worried about cuts to the Washington State Department of Fish and Wildlife (WDFW) habitat and wildlife program. Bird species and their habitats are monitored and protected through this program. At this point, the Governor's *proposed* budget does have \$402,000 in the WDFW budget for marine and shorebird monitoring. This is good news, but now, Audubon members need to tell your Senators to keep that "bird monitoring money" in WDFW's budget.

Willapa Hills Audubon Chapter and Puget Sound Audubon chapters will be happy to know that *spartina control funds* are also in the *proposed* operating budget. WDFW has \$466,000 and Department of Agriculture has about \$1.7 million for *spartina control* for the next biennium. At the April 2002 ACOW meeting, we all learned how fast *spartina* takes over good shorebird habitat. Again, it is time to let your Senators know that we need *spartina* money in the Senate budget.

Capital Budget

At our December 7 meeting of Audubon conservationists, we learned how the state-funded

Wildlife and Recreation Program (WWRP) saves critical habitat for birds and wildlife. Money from the state's Capital Budget pays for land that can be set aside for birds. We need \$55 million in that program, but the Governor only put \$30 million into the WWRP fund. Our Senators need to know that WWRP should have more than \$30 million for critical habitat projects. To find out what is at stake in your area, go to the Washington Wildlife and Recreation Coalition's website to view the wildlife habitat that has been saved through this program. Info@WildlifeRecreation.org

Shorelines

On January 20, the Senate Land Use Committee heard testimony from an unprecedented coalition of environmental and business interests about shoreline protection regulations. As you might recall, over a year ago Ecology's draft shoreline regulations were contested by businesses and local governments. Rather than go to court, businesses, local governments, and environmentalists negotiated new draft regulations.

During the hearing Senators congratulated the parties involved in the negotiations, but also had big concerns about the "unfunded mandate" for local governments. The Governor's budget does have \$2 million for local governments to update their shoreline regulations. But what about future funding? Legislative action can only apply to the current biennium; they cannot commit future funds. The discussion now will be about how to assure local governments that they can get help in the future. Stay tuned as the shoreline funding debate evolves.

Environmental De-regulation

Both House and Senate are worried about our economy and want to simplify our regulatory process. The environmental community believes we should



2003 Citizens' Lobby Day Set for February 20...

Audubon Washington, People for Puget Sound and other conservation organizations invite all environmentalists and conservationists to **Citizens' Lobby Day** on February 20, 2003 in Olympia Washington. This is an exciting and informative day of legislative briefings, lobbying workshops, meetings with **your** lawmakers, and a fun and exciting legislative reception.

Register today online at <http://www.pugetsound.org> or contact our office for more information.

Here is a quick glimpse of what's in store:

Citizens' Lobby Day 2003 Agenda

9:00am-Noon	Legislation Update & Lobbying Workshop
Noon-1:30pm	Audubon Members "Dutch treat" Luncheon and Briefing
1:30-5:30pm	Meetings with your Legislators...
	Hospitality Suite (hot drinks, snacks and comfortable seats)
5:30 – 8:00pm	Legislative Reception & Lobby Day Celebration
	Join Legislators and other dignitaries, conservation organization staff and other citizen activists while we celebrate conserving our natural resources and protecting our environment!

We hope to see you there!

Contact Heath G. Packard for more information.

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coordinate agency work and look for efficiencies, but not at the expense of basic environmental protections. This week we tracked several bills that try to "streamline" government, but we are very concerned they go too far.

HB 1007: Permitting Bill of Rights: Audubon has serious concerns about this bill because it would short circuit proper environmental review and study of a proposed development. It gives citizens certain rights when applying for a state permit or license. They have the right to know a specific date for a yes or no decision on approval and how much information will be required. Our concern is that oftentimes developers change their proposal after they discover a wetland on their property or calculate that too much traffic will result from the development. How can an agency give a firm date for approval if new information is discovered? The bill also requires that the agency tell the applicant the exact maximum cost of the application process. Our concern is that the developer might get less expensive services than the agency would know about and thus an inflated cost would be

associated with the permit. And last, but not least, HB 1007 grants citizens the right to recover all costs and time lost in the permitting process due to violations or abuse from the permitting authority. This could result in huge litigation costs. We don't need this in a time of budget cuts. In 1995 Audubon supported HB 1010 and we are currently engaged in the Transportation Permit Efficiency and Accountability Committee (TPEAC) discussion on streamlining permit processes. We want these new programs to work first before we start changing our laws.

SB 5052: Delaying Significant Legislative Rules

This bill slows down implementation of new rules until after the end of the next legislative session. Agencies that need to address critical health issues such as clean drinking water, air pollution or cleaning up toxic sites near schools would have to wait up to a year before they could finally do their job. For example, Ecology took ten years to propose new water quality standards. (They were supposed to upgrade them every 3 years under the federal Clean Water Act.) Rather than slow down our regulatory process, the legislature should give the



agencies enough money to do their job efficiently and quickly to take care of our water supplies, air and land.

SB 5053: Federal Minimum Standards

This bill would prohibit the state from setting standards which exceed federal minimum standards unless the legislature has provided “specific legislative authority” to do so. Federal laws are written so states can choose to have higher standards. With this bill we might end up with the lowest standards in the country if we just use federal standards. And the worst part is that the Bush Administration is lowering protections for wetlands, clean water, and air. If this bill passes, our state laws and programs may not be necessary. We would just use federal laws. Audubon believes Washingtonians want higher environmental protection, not the lowest in the country.

SB 5254: Burden of Proof Shifts to State

This bill eliminates language requiring individuals challenging a rule in court to “make the case” that the rule is invalid. Bruce Wishart from People for Puget Sound agrees with Audubon about this bill: “This bill turns the current system upside down and invites endless litigation of rules. After a rule has gone through years of work in advisory committees, public hearings, and other process, we believe it is inappropriate to shift the burden of proof on to the state.” Furthermore, SB 5254 also allows for “venue shopping,” which means anyone challenging a rule can shop around for a court that is more favorable to their needs. All of this tips the careful balance set forth in the state Administrative Procedures Act (APA) and will give those seeking to overturn rules the upper hand in litigation.

SB 5255: Specific Grants of Authority

“Specific grants of authority” are needed in state law for all rulemaking by state agencies. The bill is unclear about how specific the “grant of authority” would need to be. Should the legislature tell the agency to generally provide for safe drinking water or should they get into the specific compounds and pollutants that need to be controlled? This bill could generate endless litigation over such details. The reason we have rules made by agencies is that previous legislatures recognized the importance of delegating technical work to experts at state agencies. The Legislature has already authorized agencies to use their discretion to adopt regulations within the policy guidelines created by

the legislatures. This bill would have the Legislature writing details to run the specific environmental programs. This is hardly streamlining government!

SB 5280: Elimination of Hydraulic Permit Approval Program (HPA)

Unfortunately, this bill was introduced to eliminate the Washington State Department of Fish and Wildlife’s program to protect fish and wildlife along streams and rivers by July 1, 2003. The bill cites “burdensome, duplicative, and conflicting rules and regulatory programs significantly hampering economic growth and prosperity”. Plus, it claims that because the HPA program was established prior to the enactment of the federal endangered species act, the state environmental policy act, shorelines management act, water pollution control act, water resources act, and the growth management act, that these laws now can control what happens in our waterways and shorelines. Over the 2002 summer, Audubon participated in an evaluation of the current HPA program and agreed with the findings in the final report. We found, among other things, that WDFW needs more training for their staff, must require consistent application of program regulations, and must consistently apply the appeals process. However, none of the recommendations led to the complete elimination of the program. Audubon does not support SB 5280. To view the report, please go to: <http://www.wa.gov/wdfw/hab/hpa/hpatask/hpafinal.htm>.

Water Resources

SB 5027: Watershed Planning

This bill requires state agencies to give deference to the majority opinion of a watershed “planning unit”. The intent is to work with local citizens to plan for future uses of water by giving local citizens and the governments closest to the area the authority to determine future allocation and management of water. The problem is that state or federal laws may not agree with the majority of votes on a planning unit. In this case, the state agency responsible for adopting rules for this area (most likely Ecology), would have to send a written explanation of why the planning unit could not adopt certain rules. Furthermore, Ecology would have to draft the rules, review them with the local government and reach a



settlement if they did not agree. If there are objections, Ecology must do it over again. If Ecology wanted to amend rules for water planning in the future, they would use a “negotiated rule-making process”; a semi-formal process to agree on rules. Audubon believes this bill over-regulates the watershed planning process. In fact, our Conservation Director, Naki Stevens, is currently working in a very constructive watershed planning process in the Wenatchee River Watershed. This bill continues to create mistrust and too many expensive and time-wasting steps when reasonable people could be agreeing on the future of their water. Audubon does not support this bill.

SB 5073: Cooperative Watershed Planning

Senator Karen Fraser introduced a very good bill that supports Audubon's work to restore and enhance watersheds for birds, wildlife, and people. The intent is to remove statutory barriers that may prevent local governments from working together in the creation and implementation of cooperative, coordinated watershed plans. It also provides additional authorities to assist in such cooperative work at the watershed level. SB 5073 recognizes that our state's river systems give us so many benefits that we should protect them to reflect the diversity of social, environmental, and economic factors that make our state unique. This bill finds that cooperative watershed management actions by local governments, special districts, and utilities can help maintain a healthy watershed function and support the beneficial use of water into the future. Audubon supports this bill.

Conservation Districts

To save money, the Governor's budget places the Conservation Commission under the Department of Agriculture. Audubon believes this is a false savings and could redirect the mission of the Conservation Districts. We are worried that if the Commission is merged into a cabinet agency it would lose its well-respected status as a neutral third party. Presently, the Commission has a good balance of representatives from the Governor's office, Conservation Districts, and other natural resource

agencies. If the Commission is folded under the Department of Agriculture, it could become a partisan organization with changing missions every four years. Also, if the Conservation Commission is part of the state-wide Department of Agriculture, then the perception of the Conservation Districts (and perhaps reality) will be that they are a “top down” organization.

Environmental Education

SB 5079: Natural Science, Wildlife and Environmental Education Partnership Fund

Republicans and Democrats are supporting Environmental Education (EE) legislation that could lead to more support and resources for EE programs statewide. The proposed *Natural Science, Wildlife and Environmental Education Partnership Fund* has been introduced in the Senate and today co-sponsors are still signing on to the House Bill.

This act will create a partnership fund within the Office of Superintendent of Public Instruction (OSPI), which will operate as a competitive grants fund for successful EE programs. This fund will help teachers work as partners with other professionals to create successful outdoor educational experiences, and to leverage resources (funding, in-kind services and volunteers) from non-profit organizations to support environmental education programs. Recognizing the state's current fiscal challenges, however, no public funding is expected for this grant program at this time. The fund can receive monies from the Federal government and private donors and foundations. When the economy recovers in the future, state funds could be appropriated to this account.

Special thanks to the sponsors of this legislation!

(as of January 22)

Senator Bill Finkbeiner (R-45)
 Senator Jeanne Kohl-Welles (D-36)
 Senator Bob Oke (R-26)
 Senator Shirley Winsley (R-28)
 Senator Joseph Zarelli (R-18)
 Senator Don Benton (R-17)
 Senator Dan Swecker (R-20)
 Senator Luke Esser (R-48)
 Senator Patricia Hale (R-8)
 Senator Stephen Johnson (R-47)
 Senator Mike Hewitt (R-16)



- Senator Rosemary McAuliffe (D-1)
- Senator Marilyn Rasmussen (D-2)
- Senator Linda Evans Parlette (R-12)
- Representative Dave Quall (D-40)
- Representative Rodney Tom (R-48)
- Representative Kathy Haigh (D-35)
- Representative Gigi Talcott (R-28)
- Representative Joe McDermott (D-34)
- Representative Glenn Anderson (R-5)
- Representative Kelli Linville (D-42)
- Representative Phil Rockefeller (D-23)
- Representative Doug Ericksen (R-42)
- Representative Dave Upthegrove (D-33)
- Representative Fred Jarrett (R-41)
- Representative Hans Dunshee (D-44)
- Representative Toby Nixon (R-45)
- Representative Lynn Kessler (D-24)
- Representative Laura Ruderman (D-45)
- Representative William Eickmeyer (D-35)
- Representative Con Cox (R-9)
- Representative John Lovick (D-44)
- Representative Sam Hunt (D-22)

Audubon Washington, Washington Forest Protection Association, Woodland Park Zoo, Environmental Education Association of Washington, the Governor's Council on Environmental Education, and others are working together to advocate for this fund. We encourage Audubon members to thank their legislators listed above. If your legislator is not on the above list, call and ask them to support the EE Partnership Fund bill.

Other Environmental Organization's Bills
HB 1002/ SB 5124: The Mercury Reduction and Education Act

This bill phases out use of mercury in products where cost-effective, readily available alternatives already exist. It requires manufacturers of some mercury products to take financial responsibility for making sure that their products are collected and disposed of properly. The bill establishes state government as a leader in reducing mercury pollution through their purchasing practices.

Mercury is a bio-cumulative compound (i.e. accumulates in wildlife tissues, and in greater amounts as it travels up the food chain.) Aquatic predatory bird species and

scavengers, including herons, mergansers, terns, kingfishers, pelicans, cormorants, eagles, ospreys, loons, Turkey Vultures and Common Ravens, are therefore found to have the highest concentrations of mercury. Mercury levels as low as 7.2 parts/million (ppm) in Red-tailed Hawk diets can be fatal or cause neurological damage. Symptoms include loss of motor control, aberrant behavior or physiological defects, or respiratory failure. Plus, reproductive mortality rates increase with mercury exposure. For example, Loons, Mallards, pheasants, Common Terns and Roseate Terns could be affected by concentrations of only .5ppm to 3ppm; these amounts can impact birth and growth rates. The bill has broad support from local governments, public health and environmental organizations, fishing groups, religious organizations and many more, but faces tough opposition from industries now using mercury.

For more information call WashPIRG at 206-568-2850.

Coming Up Next Week...

Shorelines

On January 27 at 3:30 pm the Senate Land Use Committee will have an overview of the Growth Management Hearings Board's review of the shoreline management plan proposed by the City of Everett and Skagit County.

Water Resources

Jan. 28 at 10 am the House Agriculture and Natural Resources Committee will hear **HB 1336: Concerning watershed planning grants.** This bill provides that, upon approval of the watershed plan, the implementing governments may name an implementation lead agency (eg. local governments, tribal governments, or other units of government that formally accept obligations for plan implementation). The lead agency is to coordinate and periodically review watershed plans. This bill was proposed by the Governor and is of interest to Audubon because we are working with our chapter members to participate in local watershed planning.



Capital Budget

Jan. 29 at 8 am the House Capital Budget Committee will hear **HB 1136: Distributing the Outdoor Recreation Account.** Audubon supports this bill because it increases the amount of capital funds allowed to be used to maintain our parks and public lands. Our land stewardship suffers if we do not have funds to control invasive weeds, maintain trails and clean up garbage. This bill increases money to take care of our lands.

State Parks

Jan. 28 at 1:30 pm the House Fisheries, Ecology and Parks Committee will hear **HB 1137: Corps of Discovery Pass** for their parks along the Lewis and Clark Trail. **HB 1139: The Evergreen Recreation Pass** would be a single renewable annual recreation parking pass for state-owned recreation sites in lieu of day-use parking fees. The legislature hopes that this recreation parking pass will be widely available and that it is optional for members of the general public. HB 1139 also encourages our state agencies to coordinate with federal natural resource recreational land managers and neighboring states to develop a regional recreational parking pass.

Environmental Education

Jan. 31 at 1:30 pm the Senate Education Committee will hear **SB 5079: The Natural Science, Wildlife and Environmental Education Partnership Fund.** This is the bill Audubon has been promoting which creates a grant program within the Office of the Superintendent of Public Instruction (OSPI) to help teachers do more environmental education. Audubon has worked the same bill on the House side. See the information above.

Wildlife Body Gripping Traps

Jan. 28 at 1:30 the Senate Parks, Fish and Wildlife Committee will hear **SB 5129: Repealing provisions concerning body gripping traps.** This bill would repeal the initiative passed to outlaw body gripping traps. They will also hear **SB 5179: Allows Body Gripping Traps in Some Circumstances** and allows the use of safe and effective traps for the protection of life and property. It is also the intent to

authorize the fish and wildlife commission to limit the use of inhumane traps when effective alternatives exist. This bill provides some body-gripping traps can be used if nonlethal control tools, such as guard animals, electric fencing, or box or cage traps are not effective in stopping the animal problem. SB 5179 requires the commission to adopt rules to ensure body-gripping traps are used in a safe and humane manner. The rules may include trapping hours, seasons, area closures, trap checking frequency, and trap size and placement restrictions. The commission may prohibit the use of certain traps found to be inhumane when effective alternative traps are found to be widely available. Audubon's Conservation Committee will discuss both bills before taking a position on them.





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Washington State Legislative Hotline: 1-800-562-6000

If you wish to send mail to a member of the **House**,
address it as follows:

Representative's Name
PO Box 40600
Olympia WA 98504-0600

For the **Senate**, address as follows:

Senator's Name
PO Box 404[Leg. Dist.]
Olympia WA 98504-04[Leg. Dist.]

(For example - 43rd Leg. Dist.: PO Box 40443, Olympia WA 98504-0443)

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- § Always include your name and address and those of the official on all mail and E-mail communications.
- § Limit faxes to three pages and always include the name of the legislative recipient on the cover sheet.

To contact your legislator by email, use the following formula:

First 8 letters of the last name, underscore, first 2 letters of the first name followed by @leg.wa.gov
(For example, **Sen.** Bill Finkbeiner: finkbein_bi@leg.wa.gov or **Rep.** Pat Lantz: lantz_pa@leg.wa.gov)

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focusing on birds, other wildlife,
and their habitats for the benefit of
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