



And, the Legislature Finally Left Olympia.....in June !

We knew our Legislators would be working overtime this year because of the budget short-fall, but we did not plan on two special sessions! At first, the Legislature finished their regular session on April 27 and went into a two-week break. Then they came back for a "rolling special session" which meant that only some legislators were in Olympia; the remainder were on call for specific votes. Special Session Two started in early June and focused on a \$2.8 billion budget shortfall and how to cut state programs. The programs and citizens hit hardest were home health care workers, those in need of publicly-subsidized health insurance, and teachers. Keeping Boeing in Washington was the main topic of discussion during the last week of session. Unfortunately, during the last hours of the special session, 3 water resources bills were passed. The environmental community, including Audubon, opposed all three bills. They do not support our environmental values of keeping water in streams for healthy riparian habitats for fish, birds and wildlife.

First, the Good News....and What is Already Happening to These Bills!

ESHB 1466: Natural Science, Wildlife and Environmental Education Partnership Fund Act creates a grant fund for non-profit organizations to promote environmental education. Audubon would use these funds to create partnerships between our chapters and centers with local schools and teachers. But, the next step is to find new funding to PUT INTO the account. Audubon has already started working with environmental educators and schools to research available funding.

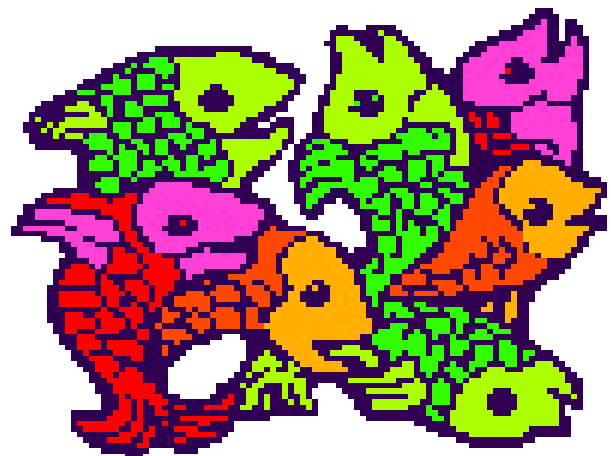
2SHB 1095:Assisting Small Forest Landowners creates new standards to maintain and repair forestland that will be logged by small forest owners. Audubon worked closely with forest owners to make sure roads, culverts and re-planting standards would protect habitat for birds. The Department of Natural Resources has already drafted administrative codes that will be available for public review this summer. If you are interested in these regulations, please contact Audubon Washington's Olympia office at 360-786-8020 or DNR at 360-902-1000.

ESHB 1002: The Mercury Reduction and Education Act phases out use of mercury in products where cost-effective, readily available alternatives already exist. This was a win for the environmental community! 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,

and cormorants, are therefore found to have the highest concentrations of mercury. The Departments of Ecology and Health will develop an education program about products that are banned (mercury florescent bulbs, thermometers, thermostats, blood pressure devices, novelty items such as shoes with lights in them and joy buzzers) and suggest alternatives to and ways of properly recycling these items. The bad news in the Operating Budget is that, despite the passage of the Mercury Bill, Ecology lost over half of its \$800,000 program to clean up and regulate Persistent Bio-Cumulative Toxins (PBTs). Ecology is now left with only \$300,000 to phase out the use of toxic substances. The environmental community is working with the Governor's office to restore some of these funds.

Shoreline Protection was increased with new regulations and funding. For 12 months, prior to this session, Audubon was part of a negotiating team to develop acceptable regulations to protect environmental values and provide economic development. As part of this bill, we were also able to get \$2 million in the Governor's and House Operating budgets to help counties begin implementing the regulations. Ecology is drafting the new shoreline regulations and will hold public hearings over the summer and fall. Call Audubon Washington or Ecology 360-407-6000 for more information.

E2SHB 1418: Farms, Birds and Tidegates were the themes of a bill to help farmers in Skagit Valley stay in business while also finding ways to restore habitat for salmon, wildlife and birds. In 2003-04, Audubon will participate in a local task force to recommend ways to improve habitat and still keep





farmers in business.

Several bills on Wildlife and Nature Tourism were signed by the Governor. They were of high interest to both the Senate and House economic development committees. Audubon supported bills to promote nature tourism and coordinate between wildlife and tourism state agencies and non-profit organizations. Legislators were very impressed with our Birding Trail Program and want to support future trails. On September 3, in Leavenworth, Audubon will co-host with the Departments of Fish and Wildlife and Tourism an all-day workshop on Nature Tourism in Leavenworth to gather ideas on how to increase watchable wildlife, birding trails and other nature tourism programs. The results of that workshop will be presented at a statewide conference on Tourism and Economic Development at the Seattle Convention Center on November 19 and 20. If you are interested in attending either event, call Audubon Washington.

Many Growth Management bills came primarily from the Senate to reduce standards for growth management. Audubon worked as a team with other environmental organizations to defeat all detrimental GMA bills. The last remaining problem is a provision in the Operating Budget allowing Ferry County to "opt out" of planning under the Growth Management Act. As of today, the Governor has not signed the bill to implement the Operating Budget, so Governor Locke still has time to veto that provision in the budget. We've sent emails and letters urging him to do so.

Regulatory Reform bills were proposed to eliminate Washington State environmental standards in favor of federal standards and delayed rule-making authority for state agencies. As with growth management, Audubon worked as a team with others to defeat these bills.

Prohibition of Lead Shot was a hot issue for several weeks because Rep. Ruth Kagi was appalled at the high number of Trumpeter Swan deaths in Skagit County. She introduced a bill to outlaw lead shot, but the bill did not make it out of the House. The Washington State Department of Fish and Wildlife countered that they already have the authority to outlaw lead shot. They have done so on 20,000 of their 800,000 acres and are studying other areas to determine where old lead shot has accumulated. Audubon will work through WDFW to keep up the pressure to study appropriate areas and then outlaw lead shot.

SHB 1698: Use of Gas Tax Funds for Off-Road Vehicle and Non-Highway Recreational Uses. This bill created a task force to re-examine how a portion of our gas taxes should be spent on trails on our public lands. Right now, a majority of the earmarked gas tax funds go toward roads and trails for off-road vehicles. However, a recent study by

Washington State demonstrated that more people are driving to our natural areas for passive recreation or watchable wildlife or birding, not for off-road vehicle use. With this new information, the state has an opportunity to re-direct some of the gas taxes toward passive recreation uses. The task force will be formed early this summer to start talking about what is a fair and equitable split in the existing gas tax earmarked for trail projects.

SSB 5179 Body Gripping Traps was a controversial bill that was opposed by the Humane Society and several Audubon chapters. The Governor vetoed this bill.

Operating and Capital Budgets

Although each agency will make "administrative cuts", the final budget does contain funding for many of Audubon's priority projects:

- 🌐 \$402,000 for two years for shorebird monitoring studies;
- 🌐 \$180,000 for one year for lead shot and bird mortality studies in Skagit County;
- 🌐 Over \$1 million appropriated to 3 agency budgets for Spartina control;
- 🌐 \$900,000 in authority to spend Duck Stamp revenues for habitat restoration on WDFW lands;
- 🌐 \$850,000 to maintain good habitat and control invasive weeds on WDFW's wildlife area;
- 🌐 \$2 million for local governments to update their Shoreline Management Act regulations;
- 🌐 Funding restored to the Growth Management Hearings Boards and program staff;
- 🌐 \$3 million appropriated to the Conservation Commission for the Conservation Reserve Enhancement Program;
- 🌐 An *Oil Spill Rescue Tug* finally funded after a 10 year fight to protect our Olympic Coast and Strait of San Juan de Fuca;
- 🌐 The Washington Wildlife and Recreation Program has a total of \$45 million appropriated (not \$30 million as originally thought) and out of that amount, Audubon will work with a local landowner near our Dungeness River Audubon Center to buy a large parcel of land across from the Center.

Now, for the Not So Good News... Special Session Water Deal





This week, Josh Baldi from the Washington Environmental Council summarized problems with the water bills. He did a great job of getting to the heart of the matter. Over the summer, Audubon and others in the environmental community will discuss strategies for the next Legislative session to address these bad water bills. Stay tuned!

Below is Josh's summary...

Unfortunately, a suite of Governor-backed water bills passed the Legislature in the waning hours of the first special session. It is expected that the Governor will sign the bills in their entirety. This is a big setback for stream flow protection, water quality and salmon recovery.

How did it happen?

At the insistence of the Senate, three water bills became a package deal toward the end of regular session with the governor wanting the "muni" bill (HB 1338), the Senate wanting the "MVID" bill (SB 5028) and the House wanting the "watershed planning" bill (HB 1336). This resulted in a political alliance that saw the city/utility lobby, the agriculture lobby, the Department of Ecology, the Senate, the House chair, and the governor's office all working together to pass the water deal. *The fact that the environmental and tribal community held off the bills until the 21st hour of the 135th day is actually quite remarkable.*

We were able to hold back the package for so long because SB 5028 is clearly bad public policy. (Yes folks, good public policy still has some value in Olympia.) We worked with the House Democratic caucus to ensure that a majority of the caucus opposed the bill. Leaders in the House had made a commitment that the bill would not be moved over a majority of the caucus. Our internal vote count before SB 5028 was moved to the floor and, indeed, the final vote count show that the environmental community did its job. *Unfortunately, given the politics of the situation, we were – in effect – rolled.*

So what do the bills do (in a nutshell)?

HB 1336: Requires implementation of watershed plans and gives them more weight (mixed bag);

HB 1338: Allows utilities and other municipal water users to increase their water use in the absence of stream flow protections. The bill does require these water users to meet undefined water conservation standards, with the exception of furthering water conservation (very bad);

SB 5028: Prohibits the state from enforcing clean water laws against water withdrawals that lower stream flows or dewater streams entirely (very bad).

Obviously, the outcome is very disappointing, but not surprising given the politics.

It is important to note that the governor played a big role in this deal. Ironically, in 1997 Governor Locke vetoed legislation virtually identical to the policies embodied in HB 1338. Clearly, the water package as a whole undermines his salmon recovery strategy and the principles of his "Water Action Strategy", which purports to move forward the interests of people, farms, and fish together, in increments, over time. Finally, for those of you involved in watershed planning, both HB 1338 and SB 5028 undercut planning efforts by granting water users new benefits now, regardless of the objectives of your local plan.

While the community may be down at the moment, we are far from out. The rules of the game may have changed, but we're still in it and need to determine how to move forward the values we all care about. Following is a more detailed breakdown of each bill, presented with Ecology's formal spin, followed by a translation.

Explanation of Bill Provisions and their Implications

2E2SHB 1336 – Watershed Plan Implementation

What Ecology formally says of the bill (culled from a list of eight statements):

- 🌐 Requires a detailed implementation plan within one year of accepting implementation funds.
- 🌐 Each implementation plan must include strategies and interim milestones to provide sufficient water for agriculture, municipal needs, and instream flows.
- 🌐 Where the Department of Ecology participated in development of a watershed plan, the department must rely on the plan as the framework for future water resource management decisions. The department may only amend such a plan through "negotiated rulemaking"

Translation:

Says what many expected: watershed plans are intended to be implemented and not sit on a shelf.

This is a positive: for the first time in state law we have a requirement for achieving – not just setting – instream flows. Unfortunately, there is no required timeline and there are no compliance assurances, so it is difficult to determine whether this objective will ever be realized.

The concerns: Seeks to further limit state interests by forcing Ecology to rely on the plans as "the framework for future decisions." If a watershed has a balanced plan, this will not be a problem. However, feedback from many planning units indicate significant concerns about whether plans will adequately



address stream flows.

ESSB 5028 (a.k.a., the “MVID” bill – Methow Valley Irrigation District)

What Ecology says the bill does (culled from a list of six statements):

- 🌍 Preserves Ecology’s authority to condition water quality certifications for power dams.
- 🌍 Prohibits the department from using the water quality act to condition the full exercise of a state water right.
- 🌍 Increases the penalties for violating water rights laws from a maximum of \$100 per day (set in 1917) to a range of \$100 to \$5,000 per day, based on the "seriousness of the violation."

Translation:

Even with regard to hydroelectric dams, where the state’s authority in this area has been confirmed by the Courts, the bill adds additional hurdles the state must meet. This will make it more difficult for Ecology to protect water quality when permitting hydropower projects.

The bill prevents Ecology from enforcing clean water laws against water diversions and withdrawals that dry up streams, kill fish, and cause water pollution as long as the diverter has a water right. Hundreds of streams throughout Washington fail to meet water quality standards as a result of reduced stream flows – often caused by authorized water use. Other than buying the offending water rights, ESSB 5028 leaves the state with no authority to remedy water quality problems caused by water diversions.

Having reasonable fines for violations of water laws makes good sense; sacrificing water quality protection to get it doesn’t. Further, it is important to understand that most problems associated with dewatered streams are caused by authorized – not illegal – water use.

2E2SHB 1338 (a.k.a., the “muni” bill)

What Ecology says of the bill (culled from a list of 11 – additional decoder ring hint: whenever the legislature “clarifies” a policy, lawmakers are in fact making new public policy):

- 🌍 Clarifies the definition of municipal water supply...
- 🌍 Clarifies that the place of use of municipal water rights includes the municipal supplier’s service area, as authorized by the Department of Health. Any change in a place of use must not be inconsistent with land use or watershed plans. Establishes a

duty to serve within the authorized retail service area.

- 🌍 Clarifies the legal status of existing municipal water right certificates issued for future growth by declaring them to be in good standing.
- 🌍 Mandates water conservation for all municipal suppliers...”

Translation:

Grants utilities and other purveyors (i.e., any entity delivering water to 15 connections or more, such as water and sewer districts) have status as “municipal water suppliers” and therefore all the benefits of HB 1338. This includes the right to unused water even if other needs, such as stream flows, are not being met.

Expands the area of authorized water use for water utilities without adequately understanding the impacts on stream flows.

Allows utilities, unlike all other water users, unlimited time to grow into very large water rights, with no corresponding duty to help restore and maintain adequate stream flows. In effect, the bill elevates utility water use over stream flow protections, which are needed to restore fish runs and water quality. A provision that would have tied new municipal water use to stream flow protections was in the version that passed the House in mid-March. This provision was effectively eliminated in negotiations with the Senate.

Fails to ensure meaningful conservation. The version that passed the House in mid-March contained a provision that would have ensured maintaining or improving conservation performance. This was eliminated in negotiations with the Senate.

In conclusion, to all our BEV subscribers...

Thank you very much for your continued support and interest in Audubon Washington’s Policy and Legislative Program.

We look forward to working with you next year !





Follow the 2003 Legislative Session

With the *Bird's Eye View*!!

You can follow all the action in the *Bird's Eye View* newsletter. You will read about recent activities of the legislature and its committees, learn the details of complex legislation, and track bills through the process. Also in the *Bird's Eye* you'll receive action alerts so you can provide your input to key decision makers. You'll find out what's happening in Congress, keep track of state and federal agencies actions, and learn about National Audubon Society's national campaigns.

And all of this can be yours for the low, low price of \$20.00 per year! We'll even send it to you via email so that you can receive this critical information even faster! To subscribe, complete this form and mail it with a check for **\$20.00** made payable to "**National Audubon Society**" or "**NAS**" to:

Audubon Washington
P.O. Box 462
Olympia, WA 98507

Clip and send today!! Clip and send today!! Clip and send today!! Clip and send today!! Clip and send today!!

Subscription form for:

A Bird's Eye View of the 2003 Legislative Session

Name _____

Address _____

City _____ Zip _____ County _____

Phone (Day) _____ Phone (Eve.) _____

Would you like to receive the BEV by E-mail? YES! NO.

Would you like to receive Action Alerts by e-mail from Audubon Washington's Alert Network? YES! NO.

E-mail address: _____

Please enclose a check for \$20.



Clip and Save This Info For Future Reference!!!.....

How to Contact Your Legislator

Find your district and your elected's contact info online at: <http://www.leg.wa.gov>

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)

Olympia Office Location Key:

JAC John A. Cherberg Bldg. **JLOB** John L. O'Brien Bldg. **INB** Irv Newhouse Bldg. **LEG** Legislative Bldg.

- § 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)

Audubon Washington is an Affiliate Member of
Visit <http://www.earthshare.org> to learn more!



Audubon WASHINGTON

P.O. BOX 462
OLYMPIA, WA 98507
(360) 786-8020

Mission of the National Audubon Society

To conserve and restore natural ecosystems,
focusing on birds, other wildlife,
and their habitats for the benefit of
humanity and the earth's biological diversity.

Non-profit Org.
US Postage
PAID
Olympia, WA
Permit # 86