

FINAL BILL REPORT

2SHB 2251

PARTIAL VETO C 120 L 14 Synopsis as Enacted

Brief Description: Concerning fish barrier removals.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Wilcox, Blake, Orcutt and Clibborn).

House Committee on Agriculture & Natural Resources
House Committee on Appropriations
Senate Committee on Natural Resources & Parks

Background:

Regulatory Streamlining.

A person must obtain a hydraulic project approval (HPA) prior to commencing any construction project that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state. Hydraulic project approvals are issued by the Washington Department of Fish and Wildlife (WDFW) to ensure the proper protection of fish life.

To receive an HPA, the applicant must provide certain information to the WDFW. This information includes general plans for the overall project and complete plans for the proper protection of fish life.

Certain fish enhancement projects may qualify for streamlined administrative review by the WDFW. These projects are expected to result in beneficial impacts to the environment and, if they qualify for streamlined review, receive a decision regarding the associated HPA in 45 days and are exempt from any local government permitting or fees.

This streamlined review is available for projects of an adequate size or scale that either eliminate human-made fish passage barriers, restore eroded or unstable stream banks, or involve the placement of woody debris into the water. However, not all of these projects are eligible for a streamlined review. To be eligible, the projects must also be approved for specific and limited purposes by the WDFW, a conservation district, or other formal review and approval processes.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Management of Fish Enhancement Projects.

The WDFW and the Washington State Department of Transportation (WSDOT) both have the authority to administer and coordinate grant programs that involve the removal of impediments to fish passage. All grant programs must be consistent with prioritization efforts, competitive application processes, and minimum dollar match criteria. Priority must be given to projects that immediately increase access to spawning and rearing habitat for depressed or endangered fish stocks or that are otherwise coordinated with other projects in a watershed.

Both the WDFW and the WSDOT must establish a centralized database directory of all fish passage barrier information. The two agencies must also work in partnership to identify cooperative projects that eliminate fish passage barriers caused by state roads and highways.

Coordination between the WDFW and the WSDOT was initially developed through a jointly convened Fish Passage Barrier Removal Task Force (Task Force). The Task Force was made up of state agencies and representatives of tribal governments, local government, and other interested parties. The statutory direction to convene the task force is still codified; however, the task force is no longer active.

Summary:

Regulatory Streamlining.

Three new categories of fish barrier removal projects are added to the list of projects that are eligible for streamlined permitting under the HPA approval process. The first is stand-alone fish barrier removal projects conducted through the WSDOT's environmental retrofit program. The second addition is fish passage barrier corrections funded through local, state, or federally approved grant programs designed to assist local governments. Finally, stand-alone projects conducted by a city or a county are made eligible for streamlined review. The state is excused from liability for all projects subject to the streamlined review except in cases of gross negligence or willful or wanton misconduct.

In addition, the WDFW must explore options with the appropriate federal agencies as to the feasibility of bundling multiple transportation-related fish passage barrier removal projects under any available nationwide federal permitting processes.

Management of Fish Enhancement Projects.

The WDFW is directed to reconvene and maintain the Fish Passage Barrier Removal Task Force; however, the character of the entity is changed from a task force to a management board (Board). The new Board is to be chaired by the WDFW and be composed of representatives of the WSDOT, cities, counties, the Governor's Salmon Recovery Office, tribal governments, and the Department of Natural Resources. The chair of the Board may also add additional participation as warranted. The Board is charged with identifying and expediting the removal of fish passage barriers, making recommendations about proposed

funding mechanisms and methodologies, and ensuring that barrier removals are consistent with other state salmon recovery efforts.

The Board must also develop a coordinated approach that addresses fish passage barrier removals in all areas of the state in a manner that recognizes that scheduling and prioritization is necessary. During this process, the Board must coordinate and share information with other fish passage correction programs and with local conservation districts.

The prioritization process developed by the Board must consider projects that: benefit depressed or endangered stocks; provide immediate access to high quality habitat; are downstream from other blockages; and are coordinated with other adjacent barrier removals.

The WDFW is provided with direction to maintain the database of all fish passage barrier information. The WDFW is also directed to develop a barrier inventory training program to qualify participants to perform barrier inventories and develop data for the centralized database.

Fish passage prioritization principles are provided to be used by the WDFW and the WSDOT when addressing barrier removals. These principles must seek to prioritize opportunities to correct multiple barriers in a stream, create cost savings, and repair downstream barriers first. The principles also include coordinating with other governments, maximizing the habitat value gained by forest landowners, and recognizing partnerships with cities and counties.

Votes on Final Passage:

House	98	0	
Senate	49	0	(Senate amended)
House	98	0	(House concurred)

Effective: June 12, 2014

Partial Veto Summary: Removes direction to the Department of Fish and Wildlife to accomplish coordinated fish barrier removal planning within existing funds.