

SENATE BILL REPORT

SB 5155

As Reported By Senate Committee On:
Ecology & Parks, February 2, 1995

Title: An act relating to hydraulic permit exemptions from the shoreline management act.

Brief Description: Exempting from the shoreline management act certain projects that have been granted hydraulic permits.

Sponsors: Senators Hargrove, Owen, Snyder, Hochstatter, A. Anderson and Rasmussen.

Brief History:

Committee Activity: Ecology & Parks: 1/25/95, 2/2/95 [DPS].

SENATE COMMITTEE ON ECOLOGY & PARKS

Majority Report: That Substitute Senate Bill No. 5155 be substituted therefor, and the substitute bill do pass.

Signed by Senators Fraser, Chair; C. Anderson, Vice Chair; McAuliffe, McDonald, Spanel and Swecker.

Staff: Gary Wilburn (786-7453)

Background: The Shoreline Management Act (SMA) requires that local governments prepare comprehensive programs applicable to uses of the shorelines of the state. The act covers all saltwater and freshwater areas of the state, except river segments with less than 20 cubic feet per second mean annual flow and lakes less than 20 acres. The jurisdiction of the act extends 200 feet landward from the ordinary high water mark of such water bodies. The Shoreline Act's stated policy is to provide for the management of shorelines by planning for and fostering all reasonable and appropriate uses. Preferred uses are declared to be those that prevent damage to the natural environment, control pollution, or are unique or dependent upon use of the state's shorelines.

The local shoreline master programs provide for use designations of the shorelines consistent with state guidelines. A permit from the county or city is required for "substantial" developments within shorelines, which are those with a value exceeding \$2500 or those that materially interfere with normal public use of the water or shorelines. Local permit decisions may be appealed to the Shorelines Hearings Board, which is composed of the three members of the Pollution Control Hearings Board, two local government representatives, and the Public Lands Commissioner.

The Hydraulic Project Act (HPA) requires that any person or government agency desiring to construct a project or perform other work that will use, divert, obstruct or change the natural flow or bed of any of the state's salt or fresh waters, obtain from the Department of Fish and Wildlife approval as to the adequacy of the project's protection of fish life. An application must include general plans for the overall project and complete plans and

specifications for work within the high water line. Ordinarily a 45-day deadline is set for processing a complete permit application. The protection of fish life is the only ground upon which approval may be conditioned or denied. A permit is valid for a five-year period, and substantial progress on construction must occur within two years of permit issuance.

Commencing construction without the required approval may subject the violator to criminal penalties. Expedited permit processing periods are provided for certain types of work, including response to the 1990 flood damage and the 1980 Mt. St. Helens eruption. Appeals of permit decisions may be taken to the Hydraulic Appeals Board. The three-member board consists of the directors, or their designees, of the Departments of Ecology, Agriculture, and Fish and Wildlife.

Summary of Substitute Bill: A public or private project designed to improve fish habitat, fish passage, or wildlife habitat is exempt from the permit requirements of the Shoreline Management Act when: (1) the project is approved by the Department of Fish and Wildlife; (2) the project is given a hydraulic permit; and (3) the local government has determined that the project is substantially consistent with the local shoreline master program, and provides a letter to that effect to the project proponent.

Substitute Bill Compared to Original Bill: The project is not exempt from the entire Shoreline Act, as under the original bill, but is instead exempt from the shoreline permit requirement.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Lengthy delays will be reduced for fish and wildlife enhancement projects to be processed through the Shoreline Act procedures for a permit when a hydraulics permit has already been obtained.

Testimony Against: The bill will remove local governments from reviewing projects to ensure consistency with local shorelines plans; prefer approach that would exempt from permit but not standards under Shoreline Act (the approach taken in committee substitute).

Testified: Senator Jim Hargrove (prime sponsor); Ed Manary, Fish and Wildlife; Tom Mark, Ecology.