

---

SENATE BILL 6305

---

State of Washington

54th Legislature

1996 Regular Session

By Senator Drew

Read first time 01/11/96. Referred to Committee on Natural Resources.

1 AN ACT Relating to off-site mitigation proposals for hydraulic  
2 projects; amending RCW 75.20.130; and adding a new section to chapter  
3 75.20 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 75.20 RCW  
6 to read as follows:

7 The legislature finds that the construction of hydraulic projects  
8 may require mitigation for the protection of fish life, and that the  
9 mitigation may be most cost effective and provide the most benefit to  
10 the fish resource if the mitigation is allowed to be applied in  
11 locations that are off-site of the hydraulic project location. The  
12 department may approve off-site mitigation plans that are submitted by  
13 hydraulic project applicants.

14 If a hydraulic project permit applicant proposes off-site  
15 mitigation and the department does not approve the hydraulic permit or  
16 conditions the permit approval in such a manner as to render off-site  
17 mitigation unpracticable, the hydraulic project proponent must be given  
18 the opportunity to submit the hydraulic project application to the  
19 hydraulic appeals board for approval.

1       **Sec. 2.** RCW 75.20.130 and 1993 sp.s. c 2 s 37 are each amended to  
2 read as follows:

3       (1) There is hereby created within the environmental hearings  
4 office under RCW 43.21B.005 the hydraulic appeals board of the state of  
5 Washington.

6       (2) The hydraulic appeals board shall consist of three members:  
7 The director of the department of ecology or the director's designee,  
8 the director of the department of agriculture or the director's  
9 designee, and the director or the director's designee of the department  
10 whose action is appealed under subsection (6) of this section. A  
11 decision must be agreed to by at least two members of the board to be  
12 final.

13       (3) The board may adopt rules necessary for the conduct of its  
14 powers and duties or for transacting other official business.

15       (4) The board shall make findings of fact and prepare a written  
16 decision in each case decided by it, and that finding and decision  
17 shall be effective upon being signed by two or more board members and  
18 upon being filed at the hydraulic appeals board's principal office, and  
19 shall be open to public inspection at all reasonable times.

20       (5) The board has exclusive jurisdiction to hear appeals arising  
21 from the approval, denial, conditioning, or modification of a hydraulic  
22 approval issued by the department: (a) Under the authority granted in  
23 RCW 75.20.103 for the diversion of water for agricultural irrigation or  
24 stock watering purposes or when associated with streambank  
25 stabilization to protect farm and agricultural land as defined in RCW  
26 84.34.020; or (b) under the authority granted in section 1 of this act  
27 for off-site mitigation proposals.

28       (6)(a) Any person aggrieved by the approval, denial, conditioning,  
29 or modification of a hydraulic approval pursuant to RCW 75.20.103 may  
30 seek review from the board by filing a request for the same within  
31 thirty days of notice of the approval, denial, conditioning, or  
32 modification of such approval.

33       (b) The review proceedings authorized in (a) of this subsection are  
34 subject to the provisions of chapter 34.05 RCW pertaining to procedures  
35 in adjudicative proceedings.

--- END ---