

SENATE BILL REPORT

SB 5433

As Reported By Senate Committee On:
Natural Resources & Parks, February 27, 1997

Title: An act relating to flood damage reduction.

Brief Description: Concerning the reduction of flood damage.

Sponsors: Senators Stevens, Anderson, Rasmussen, Newhouse, Rossi, Benton, Hargrove, Goings, Finkbeiner and Zarelli.

Brief History:

Committee Activity: Natural Resources & Parks: 2/13/97, 2/27/97 [DPS-WM].

SENATE COMMITTEE ON NATURAL RESOURCES & PARKS

Majority Report: That Substitute Senate Bill No. 5433 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Oke, Chair; Rossi, Vice Chair; Hargrove, Morton, Roach, Stevens and Swecker.

Staff: Aldo Melchiori (786-7439)

Background: The Department of Ecology has the authority to examine, approve or reject designs and plans for any structure or works to be built, reconstructed, or modified upon the banks, on any channel, or over and across the floodway of any stream or other body of water in the state.

A flood control assistance account exists and is maintained at \$4 million per biennium. The Department of Ecology, in consultation with the Department of Fish and Wildlife, and after certification of a plan by the county engineer, can grant assistance from the account. A comprehensive flood control plan must be completed and adopted before a grant can be awarded.

Current law requires comprehensive development plans by counties and cities and regulations designed to conserve natural resources. The comprehensive plans are internally consistent documents and include maps with descriptive text. Each plan contains a design for land use, housing, capital facilities, utilities, transportation, and rural elements. Agricultural, forest, mineral resource and other critical areas are designated.

Current state policy is to cooperate with federal and local governments whenever possible to provide financial and technical assistance.

Hydraulic projects require preapproval by the Department of Fish and Wildlife and guidelines have been established. An aggrieved person may appeal to the Hydraulic Appeals

Board for decisions approving, denying, conditioning, or modifying approval of a hydraulic plan.

The Department of Natural Resources can contract for the purchase and removal of gravel, rock, sand, silt, or other material from bodies of water.

The Department of Ecology regulates use permits under the Shoreline Management Act.

Summary of Substitute Bill: Each county, city or town adopting or amending a comprehensive plan or development regulations must ensure that they are both consistent and coordinated with any plan to reduce flood hazards. Additionally, local governments receiving state funding for flood projects or planning must consult with others within the watershed before proceeding.

Cities or towns cannot annex territory within a flood plain unless zoning and use requirements for the territory are consistent with the comprehensive plan, critical area regulations, and flood plain management plans of the county.

The state assumes a continuing responsibility to coordinate the efforts of state, federal and local governments, and other concerned private and public organizations to provide for the prevention, minimization, and repair of flood damage.

The permitting department can impose conditions upon persons applying for hydraulic project permits including establishment of excavation lines, excavation zone boundaries, a minimum 1 percent gradient, permissible stockpiling dates, use of equipment, debris disposal, gravel washing, and amount of gravel removal restrictions.

A successful appellant to the Hydraulic Appeals Board can be awarded legal and engineering costs involved in the challenge.

The department must allow removal of amounts of sand and gravel which can be anticipated to be replenished by a flood of at least a 10 year magnitude unless a lapse in material removal has occurred.

No charge can be required for material removal if it is directed by a local government and determined to be for flood control purposes.

The department can eliminate royalties, or allow for payment as material is sold, in areas prone to flooding. Policies are developed to encourage permit adjusted fees.

Each county's legislative authority establishes rules and procedures and conducts the business of the flood control zone district. A comprehensive flood control management plan must be completed by any county that has had at least two presidentially declared flood disasters in the last ten years. The plans must be complete by the earliest of December 31, 2001 or within two years of the second presidentially declared flood disaster. Plan requirements can be waived in an emergency, but counties with a completed plan have priority consideration.

After a final hearing by the county legislative authority on a resolution to create a flood control zone, the authority has 30 days to issue its ordinance.

A successful appellant to the Shoreline Hearings Board can be awarded legal and engineering costs involved in the challenge.

Each appropriate state agency actively seeks the removal of accumulated materials from rivers and streams where there is a flood damage reduction benefit.

The meaning of substantial development— for the purposes of the Shoreline Management Act includes any development whose total cost of fair market value exceeds \$2,500 or which materially interferes with public use, but specifically excludes, among others, improvements to dikes and levees consistent with a county flood control management plan and streambed maintenance to provide flood control benefits as determined by the county authority, construction of stream flow facilities consistent with a flood control management plan.

Flood protection projects are defined as work necessary to preserve, restore or improve stream banks or flood control facilities to repair or prevent flood damage.

Upon request by a county developing a comprehensive flood management plan, the Department of Transportation provides an inventory of all state highways and bridges in the floodplain, identification of state roads or bridges that may constrict the natural flow of flood waters, identification of state roads that may entrap flood waters in areas intended to be flood-proofed, and provide other information to assist in preventing or minimizing flood damage.

Substitute Bill Compared to Original Bill: RCW 36.70A.060 is not amended. A new section is added to RCW 36.70A requiring each county, city or town adopting or amending a comprehensive plan or development regulations to ensure that they are both consistent and coordinated with any plan to reduce flood hazards.

New section are added to RCW 86.09, RCW 86.12, RCW 86.13, RCW 86.15, and RCW 86.16 requiring each county, city or town adopting or amending a comprehensive plan or development regulations to ensure that they are both consistent and coordinated with any plan to reduce flood hazards. Additionally, local governments receiving state funding for flood projects or planning must consult with others within the watershed before proceeding.

A minimum 1 percent gradient rather than 1/2 percent is required.

Stockpiling is prohibited after September 15 rather than October 15.

The removal of amounts of gravel which can be anticipated to be replenished by a flood of at least a 10-year magnitude (rather than on an annual basis) is permitted.

The hydraulic project amendments to RCW 75.20.100 are eliminated.

The department may allow sand and gravel removals for specific reasons and the department must allow sand and gravel leases for amounts anticipated to be replenished by a flood of at least a 10-year magnitude.

No charges for material removal are required if it is directed by a local government and determined be for flood control purposes.

Parties must affirmatively show a flood control purpose to eliminate royalties.

Hydraulic policies to facilitate downstream movement of material to be developed are eliminated.

Appropriation: None.

Fiscal Note: Requested on February 4, 1997.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: Fish habitat is a priority while safeguarding against flood damage. Coordination of agencies is accomplished. Communities can work together, but they need state help. Permit processes are now too complicated. Income from gravel removed should go to schools.

Testimony Against: Nobody likes floods, but this bill reduces the ability to manage resources. Fish and Wildlife is unable to protect fish and work with people. Does not establish charges for stored gravel.

Testified: PRO: Senator Stevens; Senator Anderson; John Gintz, Snohomish County Cattlemen; Jenni Stiles, Washington Cattlemen's Assn.; Rick Nelson, Thurston County Cattlemen; Mark Triplette, WA Aggregate & Concrete Assn.; Albert hover, Washington Rivers; Stan Boles, DNR; John Matzingen, Whatcom County Public Works; Matt Witecki, WSDOT; Dave Williams, Association of Washington Cities; Cheryl Hymes; CON: Judy Turpin, Washington Environmental Council; Ed Manary, Washington Dept. of Fish and Wildlife; Paul Parker, Washington Association of Counties.