

2 **HB 1394** - S COMM AMD
3 By Committee on Transportation

4 ADOPTED 04/12/01

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** The legislature recognizes that projects
8 that remove impediments to fish passage can greatly increase access to
9 spawning and rearing habitat for depressed, threatened, and endangered
10 fish stocks. Although counties are authorized to use county road funds
11 to replace culverts and other barriers to fish passage, and may conduct
12 streambed and stream bank restoration and stabilization work in
13 conjunction with removal of these fish barriers, counties are reluctant
14 to spend county road funds beyond the county right-of-way because it is
15 unclear whether the use of road funds for this purpose is authorized.
16 The purpose of this act is to clarify that streambed and stream bank
17 restoration and stabilization activities conducted in conjunction with
18 removal of existing barriers to fish passage within county rights-of-
19 way constitute a county road purpose even if this work extends beyond
20 the county right-of-way. The legislature intends this act to be
21 permissive legislation. Nothing in this act is intended to create or
22 impose a legal duty upon counties for salmon recovery work beyond the
23 county right-of-way.

24 **Sec. 2.** RCW 36.79.140 and 1997 c 81 s 6 are each amended to read
25 as follows:

26 At the time the board reviews the six-year program of each county
27 each even-numbered year, it shall consider and shall approve for
28 inclusion in its recommended budget, as required by RCW 36.79.130, the
29 portion of the rural arterial construction program scheduled to be
30 performed during the biennial period beginning the following July 1st.
31 Subject to the appropriations actually approved by the legislature, the
32 board shall as soon as feasible approve rural arterial trust account
33 funds to be spent during the ensuing biennium for preliminary proposals
34 in priority sequence as established pursuant to RCW 36.79.090. Only
35 those counties that during the preceding twelve months have spent all

1 revenues collected for road purposes only for such purposes, including
2 removal of barriers to fish passage and accompanying streambed and
3 stream bank repair as specified in RCW 36.82.070, and including traffic
4 law enforcement, as are allowed to the state by Article II, section 40
5 of the state Constitution are eligible to receive funds from the rural
6 arterial trust account: PROVIDED HOWEVER, That counties with a
7 population of less than eight thousand are exempt from this eligibility
8 restriction: AND PROVIDED FURTHER, That counties expending revenues
9 collected for road purposes only on other governmental services after
10 authorization from the voters of that county under RCW 84.55.050 are
11 also exempt from this eligibility restriction. The board shall
12 authorize rural arterial trust account funds for the construction
13 project portion of a project previously authorized for a preliminary
14 proposal in the sequence in which the preliminary proposal has been
15 completed and the construction project is to be placed under contract.
16 At such time the board may reserve rural arterial trust account funds
17 for expenditure in future years as may be necessary for completion of
18 preliminary proposals and construction projects to be commenced in the
19 ensuing biennium.

20 The board may, within the constraints of available rural arterial
21 trust funds, consider additional projects for authorization upon a
22 clear and conclusive showing by the submitting county that the proposed
23 project is of an emergent nature and that its need was unable to be
24 anticipated at the time the six-year program of the county was
25 developed. The proposed projects shall be evaluated on the basis of
26 the priority rating factors specified in RCW 36.79.080.

27 **Sec. 3.** RCW 36.82.070 and 1997 c 189 s 1 are each amended to read
28 as follows:

29 Any money paid to any county road fund may be used for the
30 construction, alteration, repair, improvement, or maintenance of county
31 roads and bridges thereon and for wharves necessary for ferriage of
32 motor vehicle traffic, and for ferries, and for the acquiring,
33 operating, and maintaining of machinery, equipment, quarries, or pits
34 for the extraction of materials, and for the cost of establishing
35 county roads, acquiring rights_of_way therefor, and expenses for the
36 operation of the county engineering office, and for any of the
37 following programs when directly related to county road purposes: (1)
38 Insurance; (2) self-insurance programs; and (3) risk management

1 programs; and for any other proper county road purpose. Such
2 expenditure may be made either independently or in conjunction with the
3 state or any city, town, or tax district within the county. County
4 road purposes also include the removal of barriers to fish passage
5 related to county roads, and include but are not limited to the
6 following activities associated with the removal of these barriers:
7 Engineering and technical services; stream bank stabilization;
8 streambed restoration; the placement of weirs, rock, or woody debris;
9 planting; and channel modification. County road funds may be used
10 beyond the county right-of-way for activities clearly associated with
11 removal of fish passage barriers that are the responsibility of the
12 county. Activities related to the removal of barriers to fish passage
13 performed beyond the county right-of-way must not exceed twenty-five
14 percent of the total cost of activities related to fish barrier removal
15 on any one project, and the total annual cost of activities related to
16 the removal of barriers to fish passage performed beyond the county
17 rights-of-way must not exceed one-half of one percent of a county's
18 annual road construction budget. The use of county road funds beyond
19 the county right-of-way for activities associated with the removal of
20 fish barriers is permissive, and wholly within the discretion of the
21 county legislative authority. The use of county road funds beyond the
22 county right-of-way for such activities does not create or impose a
23 legal duty upon a county for salmon recovery work beyond the county
24 right-of-way."

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28 On page 1, line 2 of the title, after "projects;" strike the
29 remainder of the title and insert "amending RCW 36.79.140 and
30 36.82.070; and creating a new section."

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