

HOUSE BILL REPORT

HB 1304

As Reported by House Committee On:

Natural Resources

Title: An act relating to providing the fish and wildlife commission authority to issue pamphlet hydraulic project approval.

Brief Description: Allowing for the issuance of pamphlets in lieu of hydraulic approval permits for certain projects.

Sponsors: Representatives Doumit, Ericksen, Eickmeyer, Jackley, Sump, Pearson and Linville.

Brief History:

Committee Activity:

Natural Resources: 1/31/01, 2/23/01 [DPS].

Brief Summary of Substitute Bill

- The Department of Fish and Wildlife is authorized to adopt rules for the issuance of pamphlet hydraulic project approvals for a project or work activity that would otherwise require a permit.
- The pamphlet approvals are in lieu of issuing individual hydraulic permits for the work or activity.
- The rules adopted by the department must ensure that the alternative hydraulic project approval is only available for repetitive low-risk permit approval requests and not for complex projects or projects that generally require site-specific mitigation measures.
- The department must report to the Legislature on the number and type of these alternate approvals granted by January 1, 2006. This new authority to issue pamphlet hydraulic permits expires on July 1, 2006.

HOUSE COMMITTEE ON NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do

pass. Signed by 12 members: Representatives Doumit, Democratic Co-Chair; Sump, Republican Co-Chair; Pearson, Republican Vice Chair; Rockefeller, Democratic Vice Chair; Buck, G. Chandler, Edwards, Eickmeyer, Ericksen, Jackley, Murray and Pennington.

Staff: Bill Lynch (786-7092).

Background:

A person is required to obtain a hydraulic permit for any project or work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state before beginning the construction or work. The permits are issued to ensure the proper protection of fish life and are issued by the Department of Fish and Wildlife (DFW).

The DFW is statutorily authorized to issue blanket-type hydraulic project approvals for small scale prospecting and mining, and for activities or projects conducted solely for the removal or control of certain aquatic weeds. The blanket-type hydraulic approval is in lieu of an individual hydraulic permit. Under the blanket-type approval procedure, the department publishes a pamphlet that states the rules for that activity. As long as a person follows the rules provided in the pamphlet, that person is considered to be in compliance with the law. There is no general authority for the department to issue pamphlet hydraulic project approvals for other types of work or activities.

Failure to obtain a hydraulic project approval before commencing work, or failure to follow the conditions of a hydraulic project approval is a gross misdemeanor.

Summary of Substitute Bill:

The DFW is authorized to adopt rules for: the issuance of pamphlet hydraulic project approvals for general project or work activity that would otherwise require a permit; for projects or activities related to irrigation or stock watering purposes or streambank stabilization; and projects and activities related to marine beach front protective bulkheads or rockwalls. The pamphlet approvals are in lieu of issuing individual hydraulic permits for the work or activity. The Fish and Wildlife Commission must provide an opportunity for public review and comment before approving a type of activity or work for pamphlet approval.

The rules must: describe the time, manner, locations, methods, or other conditions under which the activity is approved; describe the activity that is exempt from individual project approval; and be published in pamphlets. The department may provide the pamphlets for free or for a fee that reasonably reflects the cost of the pamphlet. The rules may require possession of the pamphlet at the time the activity is being conducted at the hydraulic

project activity site.

The rules adopted by the department must ensure that the alternative hydraulic project approval is only available for repetitive low-risk permit approval requests, and not for complex projects or projects that generally require site-specific mitigation measures. The rules must also include a description of how the department will track, monitor, and evaluate projects approved under the alternative process.

The department must report to the Legislature on the number and type of these alternate approvals granted by January 1, 2006. The report must include information pertaining to how resources that would have been used to process these alternative permits as individual permits were shifted to more complex projects. This new authority to issue pamphlet hydraulic permits expires on July 1, 2006.

Failure to follow the conditions of the pamphlet is a gross misdemeanor.

Substitute Bill Compared to Original Bill:

Language is added to require the department to ensure that pamphlet hydraulic permit approval is not available for complex projects or projects that generally require site-specific mitigation measures. The department must track, monitor, and evaluate projects approved under the alternative process. The department must report to the Legislature by January 1, 2006 on the implementation of the program. An expiration date for the program is established at January 1, 2006. An opportunity for public review and comment on a candidate type of work or activity is required before the Fish and Wildlife Commission may approve a particular work or activity for pamphlet approval. A technical amendment is added to ensure that the violation of a small scale prospecting and mining pamphlet approval, or of the pamphlet authorizing removal and control of aquatic weeds, is a gross misdemeanor.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: (Original bill) The DFW reviews about 6,000 hydraulic project approvals each year. Of this number, about 4,000 are approved and the remainder are withdrawn or rejected. Many of the permits that are issued are of a repetitive nature and pose little risk to the environment. If this legislation is approved about five full-time staff people would be available to work on more complex projects which are seeking approval. Strategic spot-checking would be used to enforce the pamphlet hydraulic permits.

Testimony Against: (Original bill) The legislation is too wide-open. It is not limited to common low-risk repetitive activities. Hydraulic permit approvals are the only type of habitat authority that exists for the department. Spot-checks for enforcement is a matter of real concern. The department is already looking to streamline hydraulic permit approvals as part of the forest and fish rules. This issue could be solved with more staffing.

Testified: (In support) Representative Doumit, prime sponsor; Josh Weiss and Peter Birch, Washington Department of Fish and Wildlife; and Dawn Vyvyan, Washington Association of Professional Biologists.

(Opposed) Ron Shultz, Audubon Society; and Bruce Wishart, People for Puget Sound.