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ENGROSSED SUBSTITUTE HOUSE BILL 2757

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State of Washington

57th Legislature

2002 Regular Session

By House Committee on Natural Resources (originally sponsored by Representatives Rockefeller, Ericksen, Hunt, Doumit, Linville and Pearson)

Read first time 02/08/2002. Referred to Committee on .

1 AN ACT Relating to administration of hydraulic project approval;  
2 adding new sections to chapter 77.55 RCW; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that:

5 (1) The department of fish and wildlife issues thousands of  
6 hydraulic project approval permits each year for hydraulic projects or  
7 work that will use, divert, obstruct, or change the natural flow or bed  
8 of any of the salt or fresh waters of the state.

9 (2) The hydraulic project approval permit program can provide  
10 important habitat protection for salmon, steelhead, and trout stocks  
11 listed under the federal endangered species act.

12 (3) Determining the cost of processing, issuing, and implementing  
13 decisions on hydraulic project approval permit applications and whether  
14 a funding system that fairly allocates benefits to the applicant and to  
15 the public is desirable or possible.

16 (4) Since hydraulic project approval permit authority was first  
17 granted to the department of fish and wildlife there has been no  
18 external review and analysis of the program to determine its  
19 effectiveness.

1 (5) The state fish and wildlife commission should take a lead role  
2 in conducting such a review and analysis of the hydraulic project  
3 approval permit program.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 77.55 RCW  
5 to read as follows:

6 (1) There is hereby created the hydraulic project approval permit  
7 program technical advisory group as a subcommittee of the state fish  
8 and wildlife commission.

9 (2) The hydraulic project approval permit program technical  
10 advisory group shall consist of seventeen members including: One  
11 member of the commission who must serve as chair of the group; one  
12 member designated by the secretary of transportation; one member  
13 designated by the director of fish and wildlife; one member designated  
14 by the director of ecology; one member designated by the commissioner  
15 of public lands; one member representing local government designated by  
16 the association of Washington cities and the Washington state  
17 association of counties; one member designated by the Washington state  
18 public ports association; one member designated by the regional  
19 fisheries enhancement group advisory board; one member designated by  
20 the Washington state farm bureau; one member representing marine  
21 construction, designated by the building industry association of  
22 Washington and the associated general contractors of Washington; one  
23 member designated by the American council of engineering companies; one  
24 member designated by the northwest Indian fisheries commission; one  
25 member designated by aquaculture interests; two members representing  
26 environmental organizations; one member designated by commercial  
27 fishing interests; and one member designated by recreational fishing  
28 interests.

29 (3) Representatives from federal regulatory agencies, including the  
30 United States army corps of engineers, the environmental protection  
31 agency, the national marine fisheries service, and the United States  
32 fish and wildlife service must be invited to participate in technical  
33 advisory group work.

34 (4) The committee may create technical subcommittees as needed.

35 (5) The commission may employ temporary staff or contract for  
36 services to provide administrative and technical assistance to the  
37 hydraulic project approval permit program technical advisory group.

1        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 77.55 RCW  
2 to read as follows:

3        (1) The hydraulic project approval permit program technical  
4 advisory group must conduct a study of the state hydraulic project  
5 approval permit program to determine:

6            (a) If there are clear statutory and administrative goals for the  
7 program;

8            (b) Whether the activities, projects, and physical areas covered by  
9 the program are clearly delineated in statute;

10           (c) Whether there is redundancy, duplication, or conflict between  
11 federal, state, or local regulatory programs of similar nature;

12           (d) Whether the hydraulic project approval permit program is being  
13 administered in an economical, cost-effective manner and whether there  
14 are system efficiencies that can be used to improve program performance  
15 in protecting fish life and processing permits;

16           (e) Consistency of hydraulic project approval permit program  
17 implementation from region to region of the state;

18           (f) The effectiveness of hydraulic project approval permit  
19 conditions and mitigation requirements in terms of protecting fish  
20 life;

21           (g) The adequacy of hydraulic project approval permit monitoring to  
22 ensure that the protection of fish life is being achieved;

23           (h) If currently available training and education programs are  
24 adequate and appropriate for educating department personnel responsible  
25 for adopting, implementing, and enforcing the hydraulic code and  
26 industry and other groups responsible for complying with hydraulic  
27 program requirements;

28           (i) Whether the hydraulic appeals board process and membership  
29 under RCW 77.55.170 can be modified to improve the hydraulic appeals  
30 process; and

31           (j) Based on findings from (c) through (e) of this subsection,  
32 whether existing funding sources:

33            (i) Are adequate for program workload; and

34            (ii) Fairly distribute program costs and benefits between the  
35 general taxpayer and program applicants.

36        (2) Once the hydraulic project approval permit program technical  
37 advisory group has concluded review of the existing program and the  
38 areas listed in subsection (1) of this section, the group must develop  
39 and provide a report to the commission, the governor, and the

1 legislature that provides recommendations for administrative and  
2 statutory changes to improve the program, and appropriate funding  
3 sources for the program. However, projects whose sole purpose is to  
4 restore and enhance habitat are exempt from the payment of fees. The  
5 report must also identify outcome-based performance measures to improve  
6 the timeliness of permit issuance, service delivery, and client  
7 satisfaction.

8 (3) For those recommendations that do not receive the unanimous  
9 support of the hydraulic project approval permit program technical  
10 advisory group, a list of options for addressing the identified issue  
11 must be provided as part of the report.

12 (4) Any recommendations of the hydraulic project approval permit  
13 program technical advisory group concerning fees must be consistent  
14 with the direction provided in RCW 76.09.030(2) to work for the  
15 integration of the forest practices and hydraulic permitting processes.  
16 It is the legislature's intent that no hydraulic permit fees be charged  
17 once these two permitting processes are integrated.

18 (5) The final report of the hydraulic project approval permit  
19 program technical advisory group must be provided to the commission,  
20 the governor, and the appropriate committees of the legislature by  
21 November 15, 2002.

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