

FINAL BILL REPORT

2SHB 2879

C 249 L 98

Synopsis as Enacted

Brief Description: Facilitating the review and approval of fish enhancement projects.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Buck, Butler, Chandler, DeBolt, Sehlin, Hatfield, McCune, Doumit, Kessler, Morris, Kenney, Constantine, Ogden, Regala, Tokuda, Anderson, Thompson and Conway).

House Committee on Natural Resources

House Committee on Appropriations

Senate Committee on Natural Resources & Parks

Senate Committee on Ways & Means

Background: A variety of in-water projects are carried out to enhance salmon and steelhead habitat. Such projects include improvement of fish passage, bank stabilization to prevent erosion and siltation, placement of large woody debris, and the creation of overwintering ponds. These projects are subjected to a review and approval process that includes the following steps:

- hydraulic projects approval;
- possible State Environmental Policy Act review; and
- differing local requirements.

A report to the Legislature from the Regional Fisheries Enhancement Group Program Citizens Advisory Board found that local permitting requirements can differ widely. These processes and fees can frustrate local volunteer efforts and impede efforts to fit within the "work window" intended to ensure that in-water projects do not harm critical life stages for salmonids.

The Legislature addressed a similar issue pertaining to review and approval of watershed restoration projects. In 1995, the Legislature required the Conservation Commission to develop, in consultation with other state agencies, tribes, and local governments, a consolidated application process for permits for a watershed restoration project developed by an agency, or sponsored by an agency on behalf of a volunteer organization. All agencies of the state and local governments are required to accept the single application developed by the Conservation Commission, to process the application without charge, and to issue permit decisions within 45 days. Watershed restoration projects are exempted from substantial development permits under the Shoreline Management Act.

Summary: The review and approval of fish habitat enhancement projects is facilitated by identifying projects that are eligible for expedited review. The Department of Ecology is directed to modify the joint aquatic resource permit application (JARPA) form to incorporate the process established for expedited review of certain fish habitat enhancement projects.

Fish habitat enhancement projects eligible for expedited review are limited to those that:

- eliminate fish passage barriers;
- restore eroded or unstable stream banks; or
- provide instream structures that benefit fish stocks.

The Department of Fish and Wildlife (DFW) may develop size and scale thresholds to determine whether eligible projects should be reviewed under an expedited process or the standard process.

Local governments are prohibited from requiring permits or charging fees for the review and approval of eligible projects.

Projects are approved in one of the following ways:

- by the DFW pursuant to the salmon enhancement program or the volunteer cooperative fish and wildlife enhancement program;
- by the sponsor of a watershed restoration plan as provided in by law;
- by the DFW as a department-sponsored fish habitat enhancement or restoration project;
- through the review and approval process for the jobs for the environment program;
- through the review and approval process for conservation district-sponsored projects;
- through a formal grant program established by the Legislature or the DFW for fish habitat enhancement or restoration; and
- through other formal review and approval processes established by the Legislature.

Hydraulic project approval is required for eligible projects, and must be applied for with a JARPA form. Project sponsors must provide a completed JARPA form to both the DFW and to each appropriate local government. A 15-day comment period is provided by the department so that comments can be made on the environmental impacts associated with the proposed project.

Within 45 days, the DFW will:

- issue the hydraulic project approval, with or without conditions;
- deny approval; or
- make a determination that the expedited review process is not appropriate for the proposed project.

The State Environmental Policy Act is amended to exempt those fish habitat enhancement projects eligible for expedited review from environmental review decisions. In addition, projects eligible for expedited review are presumed consistent with local shoreline master programs.

Requirements pertaining to planning commissions, planning and zoning in code cities, the Planning Enabling Act, growth management, the Shoreline Management Act, and the state building code are each amended to require that eligible fish habitat enhancement projects be reviewed according to the expedited permit review and approval process established for such projects. If an eligible fish habitat enhancement project is also a watershed restoration project, the project sponsor must follow the expedited process.

Authority is granted to the Department of Transportation to administer a grant program that assists state agencies, local governments, private landowners, and volunteer groups in the removal of fish passage barriers. Projects are reviewed by the Fish Passage Barrier Removal Task Force. The task force reports to the Legislature by January 1, 1999, regarding the progress in implementing the program.

The DFW is required to lead an effort, also involving the Conservation Commission, local governments, fish habitat enhancement project applicants, and other interested parties, to continue improving the permitting and approval process for fish habitat enhancement projects, and to report to the Legislature on the group's progress by December 1, 1998.

Counties and cities are not held responsible for adverse impacts resulting from a fish enhancement project that has been approved for expedited approval and has been exempted from the normal approval processes.

Votes on Final Passage:

House 98 0
Senate 48 0 (Senate amended)
House 98 0 (House concurred)

Effective: April 1, 1998