

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1394

57th Legislature
2001 Regular Legislative Session

Passed by the House April 18, 2001
Yeas 92 Nays 0

Speaker of the House of Representatives

Speaker of the House of Representatives

Passed by the Senate April 12, 2001
Yeas 46 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1394** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 1394

AS AMENDED BY THE SENATE

Passed Legislature - 2001 Regular Session

State of Washington 57th Legislature 2001 Regular Session

By Representatives Eickmeyer, Schoesler, Rockefeller, Sump, Jackley, Kessler, Cox and Dunshee

Read first time 01/25/2001. Referred to Committee on Transportation.

1 AN ACT Relating to clarifying the use of county road funds in
2 salmon recovery projects; amending RCW 36.79.140 and 36.82.070; and
3 creating a new section.

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

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

1 impose a legal duty upon counties for salmon recovery work beyond the
2 county right-of-way.

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

5 At the time the board reviews the six-year program of each county
6 each even-numbered year, it shall consider and shall approve for
7 inclusion in its recommended budget, as required by RCW 36.79.130, the
8 portion of the rural arterial construction program scheduled to be
9 performed during the biennial period beginning the following July 1st.
10 Subject to the appropriations actually approved by the legislature, the
11 board shall as soon as feasible approve rural arterial trust account
12 funds to be spent during the ensuing biennium for preliminary proposals
13 in priority sequence as established pursuant to RCW 36.79.090. Only
14 those counties that during the preceding twelve months have spent all
15 revenues collected for road purposes only for such purposes, including
16 removal of barriers to fish passage and accompanying streambed and
17 stream bank repair as specified in RCW 36.82.070, and including traffic
18 law enforcement, as are allowed to the state by Article II, section 40
19 of the state Constitution are eligible to receive funds from the rural
20 arterial trust account: PROVIDED HOWEVER, That counties with a
21 population of less than eight thousand are exempt from this eligibility
22 restriction: AND PROVIDED FURTHER, That counties expending revenues
23 collected for road purposes only on other governmental services after
24 authorization from the voters of that county under RCW 84.55.050 are
25 also exempt from this eligibility restriction. The board shall
26 authorize rural arterial trust account funds for the construction
27 project portion of a project previously authorized for a preliminary
28 proposal in the sequence in which the preliminary proposal has been
29 completed and the construction project is to be placed under contract.
30 At such time the board may reserve rural arterial trust account funds
31 for expenditure in future years as may be necessary for completion of
32 preliminary proposals and construction projects to be commenced in the
33 ensuing biennium.

34 The board may, within the constraints of available rural arterial
35 trust funds, consider additional projects for authorization upon a
36 clear and conclusive showing by the submitting county that the proposed
37 project is of an emergent nature and that its need was unable to be
38 anticipated at the time the six-year program of the county was

1 developed. The proposed projects shall be evaluated on the basis of
2 the priority rating factors specified in RCW 36.79.080.

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

5 Any money paid to any county road fund may be used for the
6 construction, alteration, repair, improvement, or maintenance of county
7 roads and bridges thereon and for wharves necessary for ferriage of
8 motor vehicle traffic, and for ferries, and for the acquiring,
9 operating, and maintaining of machinery, equipment, quarries, or pits
10 for the extraction of materials, and for the cost of establishing
11 county roads, acquiring rights-of-way therefor, and expenses for the
12 operation of the county engineering office, and for any of the
13 following programs when directly related to county road purposes: (1)
14 Insurance; (2) self-insurance programs; and (3) risk management
15 programs; and for any other proper county road purpose. Such
16 expenditure may be made either independently or in conjunction with the
17 state or any city, town, or tax district within the county. County
18 road purposes also include the removal of barriers to fish passage
19 related to county roads, and include but are not limited to the
20 following activities associated with the removal of these barriers:
21 Engineering and technical services; stream bank stabilization;
22 streambed restoration; the placement of weirs, rock, or woody debris;
23 planting; and channel modification. County road funds may be used
24 beyond the county right-of-way for activities clearly associated with
25 removal of fish passage barriers that are the responsibility of the
26 county. Activities related to the removal of barriers to fish passage
27 performed beyond the county right-of-way must not exceed twenty-five
28 percent of the total cost of activities related to fish barrier removal
29 on any one project, and the total annual cost of activities related to
30 the removal of barriers to fish passage performed beyond the county
31 rights-of-way must not exceed one-half of one percent of a county's
32 annual road construction budget. The use of county road funds beyond
33 the county right-of-way for activities associated with the removal of
34 fish barriers is permissive, and wholly within the discretion of the
35 county legislative authority. The use of county road funds beyond the
36 county right-of-way for such activities does not create or impose a

- 1 legal duty upon a county for salmon recovery work beyond the county
- 2 right-of-way.

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