
**Agriculture & Natural
Resources Committee**

SSB 5345

Brief Description: Excluding certain drainage infrastructure from fishway provisions.

Sponsors: Senate Committee on Agriculture (originally sponsored by Senators Haugen, Swecker, Doumit, Morton, Rasmussen, Hargrove and Horn).

Brief Summary of Substitute Bill

- Exempts previously installed drainage infrastructure from the statutory fishway provisions.
- Applies statutory fishway provisions only to bona fide streams.

Hearing Date: 4/2/03

Staff: Caroleen Dineen (786-7156).

Background:

The hydraulics code requires any obstruction across or in a stream to be provided with a durable and effective fishway approved by the Director of the Department of Fish and Wildlife (DFW). A failure to provide, maintain, or operate such a fishway is a gross misdemeanor. After certain notice, the Director may remove an obstruction at the owner's expense or destroy it as a public nuisance.

If a person or agency wishes to construct any form of hydraulic project or perform other work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state, the person must secure hydraulic project approval (HPA) from the DFW regarding the adequacy of the means proposed for the protection of fish life. The DFW may levy a civil penalty of up to \$100 per day for violations of this requirement.

Two recent HPA decisions involved installation of self-regulating tide gates (SRTs). Skagit County Dike District No. 22 applied for a HPA to replace an existing four-foot pipe and tide gate on Dry Slough. The HPA issued by the DFW required the replacement culvert to be fitted with a SRT. The HPA conditions have been appealed to the Hydraulic Appeals Board.

The other decision involved Skagit County Public Works Department's request for a HPA to disable the regulating float system on a SRT installed on Edison Slough in 2000 and operate it as a standard tide gate for 24 months. The DFW denied the request, and the Skagit County Public Works Department requested an informal review of the denial.

Summary of Bill:

The requirement to provide a durable and efficient fishway with a dam or other obstruction is applied only to a bona fide stream. The fishway provisions do not apply to drainage infrastructure originally installed before the effective date of these provisions or to the repair, improvement, or replacement of this drainage infrastructure. Drainage infrastructure includes dikes, drains, tide gates, flood gates, pumps, drainage tiles, and drainage pipe that protects land for agricultural uses and that are not located in a bona fide stream. The term "bona fide stream" does not include a drainage ditch or installed drainage infrastructure.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.