

SENATE BILL REPORT

SB 6264

As Reported By Senate Committee On:
Parks, Fish & Wildlife, February 2, 2004

Title: An act relating to general permits.

Brief Description: Allowing for the issuance of general permits for certain projects in state waters and on shorelines of the state.

Sponsors: Senators Swecker, Doumit, Oke, Mulliken, Horn, Jacobsen, Rasmussen and Murray.

Brief History:

Committee Activity: Parks, Fish & Wildlife: 1/26/04, 2/2/04 [DPS].

SENATE COMMITTEE ON PARKS, FISH & WILDLIFE

Majority Report: That Substitute Senate Bill No. 6264 be substituted therefor, and the substitute bill do pass.

Signed by Senators Oke, Chair; Sheahan, Vice Chair; Doumit, Jacobsen, Morton, Spanel and Swecker.

Staff: Kari Guy (786-7437)

Background: A person must obtain an hydraulic project approval (HPA) for any project that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state. HPA permits are issued by the Department of Fish and Wildlife. Approval of a standard permit is valid for a period of up to five years. Most HPA permits may be appealed according to the provisions of the Administrative Procedure Act, with the exception of HPAs for agricultural or mitigation purposes, which are appealed to the Hydraulics Appeals Board. Failure to obtain an HPA is punishable under criminal law as a gross misdemeanor.

Any substantial development that occurs within 200 feet of a shoreline of the state must also receive a substantial development permit from the local government with jurisdiction. Substantial development includes most projects with a total cost of more than \$5,000, with some exemptions. Any substantial development must be consistent with the locally-adopted Shoreline Master Program. The local government must provide public notice and an opportunity for comment on all substantial development permits. Substantial development permits may be appealed to the Shorelines Hearings Board.

General permits are typically defined as permits to authorize a category of activities within a defined geographic area.

Summary of Substitute Bill: The Department of Fish and Wildlife may issue general HPA permits for activities if the department determines the activities are similar in nature and will cause only minimal adverse impacts to fish life either separately or cumulatively. A local government may issue a general substantial development permit under the Shoreline

Management Act for projects that are similar in nature, consistent with the local Shoreline Master Program, and have minimal impact on shorelines either separately or cumulatively.

In each case, the general permit must include a description of the activities covered, permit conditions, geographic scope of the permit, method to obtain coverage under the permit, and any requirements for reporting.

The Department of Fish and Wildlife or the local government must provide notice of the proposed general permit, and an opportunity for public comment. General HPA permits issued by the Department of Fish and Wildlife may be appealed under the Administrative Procedure Act. General shoreline permits issued by a local government may be appealed to the Shorelines Hearings Board.

To obtain coverage under a general permit, an applicant must provide notice to the department or the local government, which must approve or deny coverage. Any appeal of an individual project must be based only on whether the project fits the scope of the general permit.

The department may issue a stop work order to any person not complying with the condition of the general permit. The department may adopt rules to designate that a violation of a general permit condition is an infraction.

The Department of Fish and Wildlife may issue a standard HPA for a project with multiple job sites.

Substitute Bill Compared to Original Bill: The substitute bill allows the Department of Fish and Wildlife to issue a standard HPA permit for a project with multiple job sites. The substitute also specifies that an applicant must provide notice to the department or the local government to receive coverage under a general permit, and that any appeal of coverage must be limited to whether the project fits within the scope of the general permit. Authority for the department to issue stop work orders for projects not complying with a general permit are added.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: This provides a valuable tool for local governments and the Department of Fish and Wildlife to use. General permits allow a more efficient use of permitting resources, without detracting from environmental protection.

Testimony Against: With general permits, the state will lose site-specific review of environmental impacts. This may be less protective than individual permits. The Department of Fish and Wildlife needs enforcement authority for general permits. Very few local governments have the need for this; any general permit under the shoreline permit should be developed through rule by the Department of Ecology.

Testified: Senator Swecker, prime sponsor (pro); Bruce Wishart, People for Puget Sound (con); Gordon White, Ecology (con); Greg Hueckel, WDFW (pro); Jackie White, Assn. of WA Cities (pro); Eric Johnson, WA Public Ports Assn. (pro).