SENATE BILL REPORT
SB 5095

As Reported By Senate Committee On:
Natural Resources, Ocean & Recreation, February 28, 2005
Ways & Means, March 7, 2005

Title: An act relating to regulatory reform of the hydraulic project approval program.

Brief Description: Improving the efficiency and predictability of the hydraulic project approval program.

Sponsors: Senators Doumit, Morton, Berkey, Swecker, Haugen, Mulliken, Rasmussen, Hargrove and Sheldon.

Brief History:
Committee Activity: Natural Resources, Ocean & Recreation: 2/24/05, 2/28/05 [DP-WM]. Ways & Means: 3/7/05 [DP, DNP, w/oRec].

SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

Majority Report: Do pass and be referred to Committee on Ways & Means.
Signed by Senators Jacobsen, Chair; Doumit, Vice Chair; Oke, Ranking Minority Member; Hargrove, Morton, Stevens and Swecker.

Staff: Vic Moon (786-7469)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.
Signed by Senators Prentice, Chair; Doumit, Vice Chair; Zarelli, Ranking Minority Member; Brandland, Hewitt, Parlette, Pflug, Rasmussen, Roach and Schoesler.

Minority Report: Do not pass.
Signed by Senators Fraser, Vice Chair; Fairley and Rockefeller.

Minority Report: That it be referred without recommendation.
Signed by Senator Kohl-Welles.

Staff: Kirstan Arestad (786-7708)

Background: The Department of Fish and Wildlife (DFW) issues hydraulic permits for any projects taking place in state waters. The process is complex and an attempt to streamline the system has been an on going legislative issue. The definitions regarding "state waters" and what is meant by "construction" are not clear.

Summary of Bill: The Legislature intends to improve the process of regulating construction in state waters with policy measures that improve predictability for entities that work in state

waters, and make the best use of limited state resources by ensuring that regulatory reviews of in-water construction are made in an efficient manner.

The jurisdiction of the DFW is limited to issuing permits for projects or work only within the bed of any state water.

The DFW will develop procedures to ensure consistency of application of hydraulic project approval conditions, to include the following:

1) common technical conditions for saltwater and freshwater projects which must, at a minimum, address allowable in-water work periods, recognize the need to maintain an economically competitive waterfront business and port community, and meet the needs of infrastructure development as defined in RCW 90.74.010;
2) internal departmental permit review procedures that promote consistency within and between regions; and
3) habitat protection guidance for regional staff that result in predictable permit conditions for project applicants.

The DFW will establish an expedited dispute resolution process to resolve disputes regarding hydraulic project approvals.

At the request of any person or government agency the DFW will develop a renewable five-year maintenance approval agreement, or a hydraulic project approval mitigation agreement, to allow for: work on public and private property for bank stabilization; bridge repair; removal of sandbars and debris; channel maintenance; and other flood damage repair and reduction activity. The work must be under reasonable agreed-upon conditions and times and be completed without obtaining permits for specific projects.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Testimony For (Natural Resources, Ocean & Recreation): The DFW needs to limit their application of the hydraulics act and needs to provide a simplified project approval process. The agency needs to be more consistent between regions so that their approach is the same in all areas of the state.

Testimony Against (Natural Resources, Ocean & Recreation): Great progress has been made in providing a user friendly program and more consistency exists in all areas. We don't need legislation since all the interested parties plan to continue to work together to improve the program.

Who Testified (Natural Resources, Ocean & Recreation): PRO: Kristen Sawin, AWB; Eric Johnson, WPPA; Megan White, DOT; John Stuhlmiller, Farm Bureau; Cliff Webster, NW Marine Trade Association; Paul Parker, Washington State Association of Counties.

CON: Greg Hueckel, DFW; Heath Packard, Audubon; Melodie Selby, Ecology; Lea Mitchell, Washington Peer; Bruce Wishert, People for Puget Sound.

Testimony For (Ways & Means): This bill addresses a number of policy issues and would streamline some of the permitting for common in-water projects. This bill is important for the regulated community.

Testimony Against (Ways & Means): We have serious concerns with the bill in its current form. As efficiencies are created, good environmental review should be maintained.

Who Testified (Ways & Means): PRO: Eric Johnson, WPPA; Kristin Sawin, AWB.

CON: Bruce Wishart, People for Puget Sound.