

SENATE BILL REPORT

HB 1194

As Reported by Senate Committee On:
Law & Justice, April 2, 2013

Title: An act relating to limiting liability for habitat projects.

Brief Description: Limiting liability for habitat projects.

Sponsors: Representatives Stanford, Warnick, Lytton, Goodman, Wilcox, Tharinger, Chandler, Blake, Nealey, Orcutt, Hansen, Kirby, Ryu, Fagan and McCoy.

Brief History: Passed House: 3/07/13, 75-22.

Committee Activity: Law & Justice: 3/29/13, 4/02/13 [DPA].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended.

Signed by Senators Padden, Chair; Kline, Ranking Member; Darneille, Kohl-Welles, Pearson and Roach.

Staff: Aldo Melchiori (786-7439)

Background: The Governor's Salmon Recovery Office is responsible for coordinating the state strategy to allow for salmon recovery to healthy, sustainable population levels. Part of that responsibility is to coordinate and assist in the development, implementation, and revision of regional salmon recovery plans as part of the statewide strategy for salmon recovery.

Washington's system of watersheds is divided into eight Salmon Recovery Regions: Hood Canal, Lower Columbia River, Middle Columbia River, Northeast Washington, Puget Sound, Snake River, Southwest Washington, Upper Columbia River, and Washington Coast. Within those eight regions, the counties, cities, and tribal governments jointly designate areas for which a habitat project list must be developed, and designate the lead entity that will be responsible for submitting the habitat project list. The lead entity may be a county, city, conservation district, special district, tribal government, regional recovery organization, or other entity. Once selected, a lead entity must establish a committee to provide citizen-based evaluation of the projects proposed for the habitat project list.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Projects eligible for the list include habitat restoration projects, habitat protection projects, habitat projects that improve water quality, habitat projects that protect water quality, habitat-related mitigation projects, and habitat project maintenance and monitoring activities. No project included on a habitat project list is mandatory, and no private landowner may be forced to participate in any project. All areas covered by a project must be based on a water resource inventory area (WRIA), a combination of WRIsAs, or be an area agreed to by the counties, cities, and tribes.

Together, the lead entity and the committee evaluate the suggested projects, prioritize them, define the sequence for project implementation, and submit this as the habitat project list to the Salmon Recovery Funding Board (SRFB). During this process, the committee also must identify potential federal, state, local, and private funding sources for projects on the habitat project list.

Of the 139 projects submitted by lead entities in 2012, SRFB fully or partially funded 116. The Recreation and Conservation Office is responsible for administering the funding to support the functions of lead entities.

Summary of Bill (Recommended Amendments): Landowners whose land is used for a habitat project that is included on a habitat project list may not be held civilly liable for property damage resulting from the habitat project whether or not the project was funded by SRFB. Identification markers must be attached to key pieces of large woody material used in construction of the habitat restoration projects in accordance with Washington Department of Fish and Wildlife (DFW) habitat restoration guidelines.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (Recommended Amendments): Identification markers must be attached to key pieces of large woody material used in construction of the habitat restoration projects in accordance with DFW habitat restoration guidelines.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on House Bill: PRO: These projects help slow river flow and enhance salmon habitat. They are professionally engineered and reviewed, including a risk-management assessment. The foundation of their success depends upon the cooperation and voluntary participation of landowners. The private landowners are doing this as an uncompensated public service, so they deserve this liability protection. The fear of liability for otherwise willing private landowners will be removed and more of these necessary projects will move forward if this bill is passed.

Persons Testifying: PRO: Kaleen Cottingham, Recreation and Conservation Office; Megan Duffy, Dept. of Natural Resources; Derek Van Marter, Upper Columbia Salmon Recovery

Board; David Price, DFW; Jim Jeserning, WA Conservation Districts, WA Wheat Growers, WA Potato Commission; Jack Field, WA Cattlemen's Assn.; Bill Robinson, The Nature Conservancy; Dave Arbaugh, Chelan Public Utility District; Tom Davis, WA Farm Bureau.