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**ENGROSSED SECOND SUBSTITUTE SENATE BILL 5885**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Salomon, Stanford, Hasegawa, Keiser, Lovelett, Nobles, and Rolfes)

AN ACT Relating to marine shoreline habitat; amending RCW 77.55.231; and adding a new section to chapter 43.21A RCW.

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

NEW SECTION. **Sec.**  A new section is added to chapter 43.21A RCW to read as follows:

(1) The department must conduct a baseline survey of Puget Sound marine shorelines that renews oblique shoreline aerial imagery and incorporates the use of new technology to create a 360 degree on-the-water comprehensive view of the shoreline. The initial marine oblique aerial and on-the-water imagery must be completed by June 30, 2023, and updated on a regular five-year cycle thereafter. The initial marine shoreline survey must be completed by June 30, 2024, and updated on a regular five-year cycle thereafter. The survey must document and map existing shoreline conditions, structures, and structure conditions, including structures in disrepair and structures and vessels that potentially are derelict, and must be available to the public and incorporated into state geographic information system mapping.

(2) Upon completion of regular surveys, state and local permitting agencies shall consider survey results when exercising or considering whether to exercise enforcement authority.

(3) For the purposes of this section, "Puget Sound" means Puget Sound and related inland marine waters, including all salt waters of the state of Washington inside the international boundary line between Washington and British Columbia, and lying east of the Strait of Juan de Fuca, including Hood Canal and the San Juan Islands.

**Sec.**  RCW 77.55.231 and 2021 c 279 s 2 are each amended to read as follows:

(1)(a) Conditions imposed upon a permit must be reasonably related to the project. The permit conditions must ensure that the project provides proper protection for fish life, but the department may not impose conditions that attempt to optimize conditions for fish life that are out of proportion to the impact of the proposed project.

(b) In the event that any person desires to replace residential marine shoreline stabilization or armoring, a person must use the least impacting technically feasible bank protection alternative for the protection of fish life. Unless the department provides an exemption depending on the scale and nature of the project, a person that desires to replace residential marine shoreline stabilization or armoring must conduct a site assessment to consider the least impactful alternatives. A person should propose a hard armor technique only after considering site characteristics such as the threat to major improvements, wave energy, and other factors in an analysis of alternatives. The common alternatives identified in (b)(i) through (vii) of this subsection are in order from most preferred to least preferred:

(i) Remove the structure and restore the beach;

(ii) Remove the structure and install native vegetation;

(iii) Remove the structure and control upland drainage;

(iv) Remove the structure and replace it with a soft structure constructed of natural materials, including bioengineering;

(v) Remove the hard structure and construct upland retaining walls;

(vi) Remove the hard structure and replace it with a hard structure located landward of the existing structure, preferably at or above the ordinary high water line; or

(vii) Remove the hard structure and replace it with hard shoreline structure in the same footprint as the existing structure.

(c) For the purposes of this subsection, "feasible" means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

(d)(i) Puget Sound shorelines are unique for their role in supporting the Puget Sound marine ecosystem, including the food web that includes marine vegetation, forage fish, Washington's listed salmon, steelhead, and southern resident orcas.

(ii) Any repair or replacement of a marine structure in the waters of the Puget Sound must be assessed to consider the least impactful alternatives that upgrade the structures to the most recent code standards ensuring that the updates are technically feasible and subject to the alternatives in (b) of this subsection.

(2) The permit must contain provisions allowing for minor modifications to the plans and specifications without requiring reissuance of the permit.

(3) The permit must contain provisions that allow for minor modifications to the required work timing without requiring the reissuance of the permit. "Minor modifications to the required work timing" means a minor deviation from the timing window set forth in the permit when there are no spawning or incubating fish present within the vicinity of the project.

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