

HOUSE BILL REPORT

ESSB 5411

*As Passed House
April 19, 1991*

Title: An act relating to the alleviation of flood damage.

Brief Description: Making changes relating to flood damage.

Sponsor(s): Senate Committee on Agriculture & Water Resources (originally sponsored by Senators Bailey, Anderson, Hansen, Barr, McMullen, Conner and Skratek).

Brief History:

Reported by House Committee on:

Natural Resources & Parks, April 5, 1991, DPA;
Passed House, April 19, 1991, 98-0.

**HOUSE COMMITTEE ON
NATURAL RESOURCES & PARKS**

Majority Report: *Do pass as amended.* Signed by 10 members: Representatives Belcher, Chair; Scott, Vice Chair; Beck, Ranking Minority Member; Dellwo; Fraser; Hargrove; Morton; Riley; Sheldon; and Wynne.

Minority Report: *Without recommendation.* Signed by 1 member: Representative Brumsickle, Assistant Ranking Minority Member.

Staff: Randy Acker (786-7129).

Background: A wide variety of laws have been enacted authorizing local governments to provide drainage and flood control facilities and improvements, including counties, cities, towns, diking districts, drainage districts, diking improvement districts, drainage improvement districts, flood control districts, and flood control zone districts.

A flood control zone district is a special district that can be created by the county legislative authority of a county on either a county wide basis or a drainage basin basis. The county legislative authority acts as the governing body of a flood control zone district. Flood control zone districts are authorized to provide drainage and flood control improvements and to finance these improvements by: (1) imposing special assessments; (2) imposing rates and charges in the same manner as a county imposes rates and

charges in a storm water utility; (3) levying a regular property tax of up to 50 cents per \$1,000 of assessed valuation; and (4) levying excess, voter approved, property tax levies.

Each biennium \$4 million is placed into the flood control account. The Legislature can appropriate moneys in the flood control account to be used for grants to local governments to repair flood control facilities and to prepare comprehensive flood control management plans.

The federal Army Corps of Engineers issues permits for the construction of improvements in navigable bodies of water. The Department of Wildlife (DOW) and the Department of Fisheries (DOF) issue hydraulics permits for the construction of improvements in bodies of water. Counties and cities issue shoreline substantial development permits for a variety of improvements in bodies of water.

Summary of Bill: Counties are permitted to adopt comprehensive flood control management plans for drainage basins that include designating areas susceptible to flooding, establishing a comprehensive scheme of flood control improvements, land use restrictions, construction restrictions, and restrictions on both removing vegetation and development activities that exacerbate flood problems. This plan is mandatory throughout the county. The portions of the plan relating to land use restrictions and construction standards are minimum standards that a city or town may exceed. A variety of officials are permitted to participate with the county in the preparation of a comprehensive flood control management plan.

The purposes for which grants from the flood control account may be used are expanded to include cost sharing feasibility studies for new flood control projects and repairs of flood control facilities that include the enhancement of such facilities. Grants from the flood control account may be made to a local government only if in the opinion of the Department of Ecology (DOE), the local government is making a good faith effort to take advantage of, or conform with, federal and state flood control programs.

Flood control zone district laws are altered to remove the ability of the governing bodies of cities and towns to remove the city or town from inclusion in a newly created flood control zone district.

A state flood damage reduction commission is created, including: four members of the Senate; four members of the House of Representatives; the directors of the departments of Community Development, Wildlife, Fisheries, Agriculture,

Ecology, Transportation, and Parks and Recreation, or their designees; the commissioner of Public Lands, or the commissioner's designee; four persons appointed by the governor representing counties within which significant flood control improvements have been constructed; two persons representing conservation districts and special districts that have been created to provide flood control improvements; and two members of tribal governments appointed by the governor.

The study commission shall study a variety of flood and flood related issues, and report its findings to the Legislature on or before December 31, 1991. These issues include: (1) comprehensive watershed and flood damage management; (2) different permitting requirements; (3) flood control improvements; (4) growth management; (5) forest practice impacts on watershed hydraulics; and (6) the acquisition of property to reduce flood damages.

A person unlawfully changing the natural flow of surface waters is liable for property damage occurring as a result of such action.

Cities and counties preparing plans under the 1990 Growth Management Act are to adopt ordinances providing for storm water facilities concurrent with development approval.

Local governments that adopt flood plain management regulations must include provisions that allow for livestock flood sanctuary areas.

The departments of Wildlife, Fisheries, and Ecology must work with the federal Army Corps of Engineers to develop a memorandum of agreement on dike vegetation management.

The departments of Wildlife, Fisheries, Ecology, and Natural Resources must develop an informational brochure on the permitting processes related to flood damage prevention and reduction projects.

An expedited permitting process is established for permits and authorizations required for projects needed to repair damage caused by the November and December 1990 floods or for projects to remove debris that contributed to damages from the floods. The state agencies must hold a coordination meeting within 15 days of receipt of a project application and approve or deny the project within 30 days.

Fiscal Note: Requested March 29, 1991.

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

Testimony For: (ESSB 5411 as referred to committee): The state's rivers and streams have been neglected for many years. There is a need for the banks to be protected and for the silt, sand and gravel that now clog the rivers and streams to be removed. Unless significant steps are taken to prevent flooding there is the potential for tremendous property damage and loss of life. The permit process is complicated and creates unnecessary delays. It is time to establish some balance between resource protection and protection of life and property. Equal consideration of flood protection is needed in the hydraulics permit process.

Testimony Against: (ESSB 5411 as referred to committee): A comprehensive and coordinated approach to dealing with flooding is needed and this bill does not achieve that intent. A comprehensive approach to flood prevention and protection must focus on the causes and many of the causes are related to growth. It is necessary to look at the issue on a watershed bases rather than on just a project by project basis. The bill as drafted is full of legal problems that will only produce more litigation and do little to solve the real problems.

Witnesses: Bruce Briggs, Western Washington Horticulture and Washington State Nursery (Pro); LeAnn Creighton, private citizen (Pro); John Gintz, Snohomish Cattleman's Association and Beef Growers (Pro); Viard Gruenovold, private citizen (Pro); Curt Smitch, Department of Wildlife (Con); Judy Merchant, Deputy Director for Department of Fisheries (Con); Nancy McKay, Puget Sound Water Quality Authority (Con); Carol Jolly, Department of Ecology (Con); John Connelly, private citizen (Pro); Pete Philley, Prosecuting Attorney's Association, WAPA Lobbyist (Con); Jim Neff, private citizen (Pro); Jeff Parsons, National Audubon Society (Con); Don Bailey, Snokomish County Agricultural Advisory Board (Pro); Jeff Dickison, Squaxin Island Tribe Lobbyist (Con); Harold Jordan, private citizen (Pro); Dawn Vyvyan, Yakima Indian Nation Lobbyist (Con); Curt Hecla, Port of Everett (Pro); Ben Sams, private citizen (Pro); Mark Craven, private citizen (Pro); and Elsie Parker, private citizen (Pro).