

CERTIFICATION OF ENROLLMENT

SENATE BILL 6305

Chapter 276, Laws of 1996

54th Legislature
1996 Regular Session

HYDRAULIC PROJECTS--OFF-SITE MITIGATION PROPOSALS

EFFECTIVE DATE: 6/6/96

Passed by the Senate February 6, 1996
YEAS 47 NAYS 0

JOEL PRITCHARD

President of the Senate

Passed by the House February 28, 1996
YEAS 94 NAYS 0

CLYDE BALLARD

**Speaker of the
House of Representatives**

Approved March 29, 1996

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 6305** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MARTY BROWN

Secretary

FILED

March 29, 1996 - 4:59 p.m.

MIKE LOWRY

Governor of the State of Washington

**Secretary of State
State of Washington**

SENATE BILL 6305

Passed Legislature - 1996 Regular Session

State of Washington

54th Legislature

1996 Regular Session

By Senator Drew

Read first time 01/11/96. Referred to Committee on Natural Resources.

1 AN ACT Relating to off-site mitigation proposals for hydraulic
2 projects; amending RCW 75.20.130; and adding a new section to chapter
3 75.20 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 75.20 RCW
6 to read as follows:

7 The legislature finds that the construction of hydraulic projects
8 may require mitigation for the protection of fish life, and that the
9 mitigation may be most cost effective and provide the most benefit to
10 the fish resource if the mitigation is allowed to be applied in
11 locations that are off-site of the hydraulic project location. The
12 department may approve off-site mitigation plans that are submitted by
13 hydraulic project applicants.

14 If a hydraulic project permit applicant proposes off-site
15 mitigation and the department does not approve the hydraulic permit or
16 conditions the permit approval in such a manner as to render off-site
17 mitigation unpracticable, the hydraulic project proponent must be given
18 the opportunity to submit the hydraulic project application to the
19 hydraulic appeals board for approval.

1 **Sec. 2.** RCW 75.20.130 and 1993 sp.s. c 2 s 37 are each amended to
2 read as follows:

3 (1) There is hereby created within the environmental hearings
4 office under RCW 43.21B.005 the hydraulic appeals board of the state of
5 Washington.

6 (2) The hydraulic appeals board shall consist of three members:
7 The director of the department of ecology or the director's designee,
8 the director of the department of agriculture or the director's
9 designee, and the director or the director's designee of the department
10 whose action is appealed under subsection (6) of this section. A
11 decision must be agreed to by at least two members of the board to be
12 final.

13 (3) The board may adopt rules necessary for the conduct of its
14 powers and duties or for transacting other official business.

15 (4) The board shall make findings of fact and prepare a written
16 decision in each case decided by it, and that finding and decision
17 shall be effective upon being signed by two or more board members and
18 upon being filed at the hydraulic appeals board's principal office, and
19 shall be open to public inspection at all reasonable times.

20 (5) The board has exclusive jurisdiction to hear appeals arising
21 from the approval, denial, conditioning, or modification of a hydraulic
22 approval issued by the department: (a) Under the authority granted in
23 RCW 75.20.103 for the diversion of water for agricultural irrigation or
24 stock watering purposes or when associated with streambank
25 stabilization to protect farm and agricultural land as defined in RCW
26 84.34.020; or (b) under the authority granted in section 1 of this act
27 for off-site mitigation proposals.

28 (6)(a) Any person aggrieved by the approval, denial, conditioning,
29 or modification of a hydraulic approval pursuant to RCW 75.20.103 may
30 seek review from the board by filing a request for the same within
31 thirty days of notice of the approval, denial, conditioning, or
32 modification of such approval.

33 (b) The review proceedings authorized in (a) of this subsection are
34 subject to the provisions of chapter 34.05 RCW pertaining to procedures
35 in adjudicative proceedings.

Passed the Senate February 6, 1996.

Passed the House February 28, 1996.

Approved by the Governor March 29, 1996.

Filed in Office of Secretary of State March 29, 1996.