

# HOUSE BILL REPORT

## HB 1420

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**As Passed House:**

March 11, 2003

**Title:** An act relating to drainage facilities.

**Brief Description:** Allowing special districts to provide drainage ditches and tide gates.

**Sponsors:** By Representatives Quall, Schoesler, Eickmeyer, Sump, Grant, Kristiansen, Hunt, Blake, McDermott, Hatfield, Sehlin, Bailey and Linville.

**Brief History:**

**Committee Activity:**

Agriculture & Natural Resources: 2/5/03, 3/4/03 [DP].

**Floor Activity:**

Passed House: 3/11/03, 93-0.

**Brief Summary of Bill**

- Expressly includes drainage ditches, tide gates, and flood gates among the facilities that certain special purpose districts are authorized construct, acquire, operate and maintain.

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### HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

**Majority Report:** Do pass. Signed by 13 members: Representatives Linville, Chair; Rockefeller, Vice Chair; Schoesler, Ranking Minority Member; Holmquist, Assistant Ranking Minority Member; Kristiansen, Assistant Ranking Minority Member; Chandler, Eickmeyer, Grant, Hunt, McDermott, Orcutt, Quall and Sump.

**Staff:** Kenneth Hirst (786-7105).

**Background:**

The following group of special purpose districts are collectively referred to by statute as being "special districts": diking districts; drainage districts; diking, drainage, and/or sewerage improvement districts; inter-county diking and drainage districts; diking, drainage, diking improvement and/or drainage improvement districts; and flood control districts.

Such a special district may investigate, plan, construct, acquire, repair, maintain, and operate improvements, works, projects, and facilities: necessary to prevent inundation or flooding from rivers, streams, tidal waters or other waters; or necessary to control and treat storm water, surface water, and flood water.

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**Summary of Bill:**

The facilities that such a special district may investigate, plan, construct, acquire, repair, maintain, and operate expressly include drainage ditches, tide gates, and flood gates.

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**Appropriation:** None.

**Fiscal Note:** Not Requested.

**Effective Date:** This bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** (From testimony given collectively on tide gate bills HB 1418, 1419, 1420 and 1421) 1) A woman's cucumber crop was threatened by the saltwater from a leaking tide gate. When she requested approval to repair the tide gate she was told by the Department of Fish and Wildlife (WDFW) that she could do the repairs only if she signed a contract to install a self-regulating tide (SRT) gate within one year, which would let the saltwater in. Saltwater and farm land do not mix. These farms provide a great deal of money to the local economy. 2) Installing an SRT gate is like cutting a hole in your roof to keep out the rain. 3) Tide gates on Fir Island remove water that is available only when it rains; fish do not use those waters. The WDFW wants the tide gates there left open during 90 percent of the tide cycle; Fir Island would no longer be an island under that requirement. The Growth Management Act says that farmland is to be protected. 4) The drainage systems keep the water from drowning the farmland, which could happen in a matter of hours. By removing the water, they also lengthen the growing season, which is necessary for crops such as potatoes. 5) The ditches and works on the landward side must be actively maintained to ensure that they can act as the storage areas for rain water during storm events, while the tide is in. The dirt removed is spread back on the fields. 6) If the system had not been maintained, the farmland would have silted in. 7) The WDFW has stated that a malfunctioning tide gate does not qualify for the emergency repair provisions of the hydraulic code. 8) In California, drainage district officials have been sued by their ratepayers for not maintaining their tide gates. The bill allows the officials to do the work needed. 9) The Federal Emergency Management Agency and the U.S. Army Corps of Engineers have informed the drainage districts that they must maintain their drainage systems or lose federal assistance. 10) Ironically, the same areas that are being protected by tide gates for farmland also support vast amounts of migratory birds. 11) Ninety diking and drainage districts could benefit

from this legislation. 12) The bill is a means of stabilizing the permit process regarding tide gates rather than imposing fish restoration requirements on the farms. 13) The goal of the Federal Endangered Species Act is recovery, not restoration. A cooperative program is working elsewhere; here, emphasis should be on spartina control to protect wildlife.

**Testimony Against:** (From testimony given collectively on tide gate bills HB 1418, 1419, 1420 and 1421) 1) Farms are preferred to strip malls, but we have serious salmon problems, leading to serious orca problems, that must be addressed. 2) If state authority is eliminated for tide gates as in the bill, the solutions will be worked out in federal court. 3) A balance must be struck. The tide gates should be prioritized in terms of habitat value and public land opportunities need to be explored. 4) The WDFW's goal is to preserve agricultural land and industry and to recover fish. On the fish side: the Skagit River area has the greatest diversity of fish runs; and a major contributor to fish declines has been the loss of estuarine areas. 5) The WDFW is interested in the sloughs that shut off watercourses, but not in facilities that just drain fields. All of the barriers to fish passage should not be exempted from being addressed if agricultural lands are involved. Consistency with other groups with regard to fish passage is important. The WDFW's four-point plan includes taking no action in the Skagit until the watershed is evaluated. 6) The bill represents a piece-meal approach to one part of the problem. 7) Don't make tide gates immune from other state law.

**Testified:** (From testimony given collectively on tide gate bills HB 1418, 1419, 1420 and 1421) (In favor) Representative Quall, prime sponsor; Chris Cheney, Western Washington Agriculture Association; Mike Shelby; John Roozen; Lyle Wssen; Curtis Johnson; Dan Wood and Larry Jensen, Washington State Farm Bureau; Bob Hart; Bob Rose, Skagitonians to Preserve Farmland; and Willy O'Neil, Associated General Contractors.

(Opposed) Steve Robinson, Northwest Indian Fisheries Commission and Swinomish Tribe; Bruce Wishart, People for Puget Sound; Nina Carter, Audubon Society; and Greg Hueckel, Department of Fish and Wildlife.