

# SENATE BILL REPORT

## SB 5345

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As Reported By Senate Committee On:  
Agriculture, February 27, 2003

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

**Brief Description:** Excluding certain drainage infrastructure from fishway provisions.

**Sponsors:** Senators Haugen, Swecker, Doumit, Morton, Rasmussen, Hargrove and Horn.

**Brief History:**

**Committee Activity:** Agriculture: 2/6/03, 2/27/03 [DPS].

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### SENATE COMMITTEE ON AGRICULTURE

**Majority Report:** That Substitute Senate Bill No. 5345 be substituted therefor, and the substitute bill do pass.

Signed by Senators Swecker, Chair; Brandland, Vice Chair; Rasmussen and Sheahan.

**Staff:** Bob Lee (786-7404)

**Background:** Current state law provides that obstructions across streams are to be provided with a fishway approved by the Department of Fish and Wildlife. The fishway is to be maintained and continuously supplied with sufficient water to freely pass fish.

The fishway statute has been in state law at least since 1949. "Stream" is not a defined term. Past interpretations by the department that excluded drainage ditches with specific characteristics from being considered as streams have recently changed.

**Summary of Substitute Bill:** The fishway statute is clarified by specifying that bona fide streams be provided with a durable and efficient fishway. However, fishways are not required on drainage infrastructure installed before the effective date of this act, unless these facilities are located on a bona fide stream. Bona fide streams do not include drainage ditches and installed drainage infrastructure.

**Substitute Bill Compared to Original Bill:** The original bill provided an exemption from fishway statutes for drainage infrastructure whether or not it was located on a bona fide stream. The substitute bill provides an exemption if the drainage infrastructure is not located on a bona fide stream. It is clarified that drainage ditches and installed drainage infrastructure are not bona fide streams.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** Diking and drainage systems were constructed in the late 1800's in the Skagit Valley. Without a system of dikes and drains to keep salt water out and to allow drainage of excess waters, farming would be stopped. Tide gates are one way valves that allow excess waters from drainage ditches to exit during minus tides and do not allow salt waters to reenter during high tides. Saturated soils and salt waters do not allow growing of productive crops. Until recently, there has been no attempt to require fish passage on tide gates. Many of the drainage systems do not have streams associated with them. Channels that provide valuable estuaries for fish outside the dike were created when the dikes were constructed. There are other places that tidal fish habitat can be enhanced including on public lands inside and outside the dike, and on sloughs that are fed by streams with headwaters capable of supporting fish.

**Testimony Against:** Opportunities to enhance and restore estuaries for salmon need to be further explored to make salmon restoration successful. The agency's goal is the recovery of fish runs so that they can be removed from listing under the Endangered Species Act. An important factor in the recovery of salmon is sufficient estuaries for allowing juvenile fish to make the transition from fresh water to salt water.

**Testified:** Nina Carter, Audubon Washington (concerns); Chris Cheney, Mike Shelby, Curtis Johnson, John Roosen, W. Washington Agriculture Association (pro); Bob Rose, Skagitians for Protection of Farmland; Greg Hueckel, WDFW (con); Bruce Wishart, People for Puget Sound (con); Willy O'Neil, Assn. of General Contractors of Washington (pro).