
SENATE BILL 5280

State of Washington

58th Legislature

2003 Regular Session

By Senators Haugen, Oke, Prentice, Honeyford, Doumit, Morton, Hale, McAuliffe and Rasmussen

Read first time 01/21/2003. Referred to Committee on Parks, Fish & Wildlife.

1 AN ACT Relating to the hydraulic project approval program; amending
2 RCW 76.09.350, 77.55.080, 77.55.130, 77.55.160, 77.55.270, 77.55.290,
3 77.55.300, 89.08.470, and 90.58.147; creating new sections; repealing
4 RCW 77.15.300, 77.55.020, 77.55.030, 77.55.090, 77.55.100, 77.55.110,
5 77.55.120, 77.55.140, 77.55.150, 77.55.170, 77.55.180, 77.55.190,
6 77.55.200, 77.55.210, 77.55.220, 77.55.230, 77.55.250, 77.55.260,
7 77.55.280, 77.55.330, 77.55.340, 77.55.350, and 77.55.360; providing an
8 effective date; and declaring an emergency.

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

10 NEW SECTION. **Sec. 1.** The legislature finds that:

11 (1) Burdensome, duplicative, and conflicting rules and regulatory
12 programs are significantly hampering economic growth and prosperity for
13 the citizens of Washington state.

14 (2) Multiple layers of redundant federal, state, and local
15 environmental laws and regulations unnecessarily impede economic
16 development and job creation while undermining Washington state's
17 competitiveness in the national and global economy.

18 (3) The hydraulic project approval program was established prior to

1 the enactment of the federal endangered species act, the state
2 environmental policy act, shorelines management act, water pollution
3 control act, water resources act, and the growth management act.

4 (4) The provisions of the hydraulic project approval program are
5 now redundant or conflict with protective provisions adopted under
6 section 4(d) of the federal endangered species act by the national
7 marine fisheries service and the United States fish and wildlife
8 service.

9 (5) The provisions of the hydraulic project approval program are
10 also redundant or conflict with storm water and beneficial use
11 provisions adopted under the state water pollution control act and the
12 water resources act.

13 (6) The provisions of the hydraulic project approval program are
14 also redundant or conflict with provisions for protection of aquatic
15 resources in the shorelines management act and rules proposed for
16 adoption by the state department of ecology to implement the act.

17 (7) The provisions of the hydraulic project approval program are
18 also redundant or conflict with provisions of the state growth
19 management act requiring protection of critical areas.

20 (8) The unfair implementation of the hydraulic project approval
21 program by department of ecology's field staff, particularly in the
22 Skagit watershed, is placing an undue burden on the ability of the
23 agricultural community to farm in an economically viable manner.

24 (9) The hydraulic project approval program can therefore be
25 repealed.

26 NEW SECTION. **Sec. 2.** The department of fish and wildlife shall
27 make all data collected through the salmon and steelhead habitat
28 inventory and assessment project, salmon and steelhead stock assessment
29 program, or other data sources established by the department related to
30 aquatic species readily available to federal, state, and local
31 agencies, volunteer groups, citizens, and other interested parties.
32 The data may be used for permitting decisions by regulatory agencies,
33 determining appropriate on-site and off-site wetlands mitigation,
34 watershed-based mitigation as developed by the transportation permit
35 efficiency and accountability committee, maximizing environmental
36 investments on a watershed basis, identifying habitat enhancement and

1 restoration opportunities for aquatic species, and other appropriate
2 uses.

3 NEW SECTION. **Sec. 3.** Notwithstanding the provisions of RCW
4 34.05.020, all rules made by the Washington state fish and wildlife
5 commission relating to the hydraulic project approval program shall be
6 repealed, without further action by the commission by July 1, 2003.

7 **Sec. 4.** RCW 76.09.350 and 1997 c 290 s 1 are each amended to read
8 as follows:

9 The legislature recognizes the importance of providing the greatest
10 diversity of habitats, particularly riparian, wetland, and old growth
11 habitats, and of assuring the greatest diversity of species within
12 those habitats for the survival and reproduction of enough individuals
13 to maintain the native wildlife of Washington forest lands. The
14 legislature also recognizes the importance of long-term habitat
15 productivity for natural and wild fish, for the protection of hatchery
16 water supplies, and for the protection of water quality and quantity to
17 meet the needs of people, fish, and wildlife. The legislature
18 recognizes the importance of maintaining and enhancing fish and
19 wildlife habitats capable of sustaining the commercial and
20 noncommercial uses of fish and wildlife. The legislature further
21 recognizes the importance of the continued growth and development of
22 the state's forest products industry which has a vital stake in the
23 long-term productivity of both the public and private forest land base.

24 The development of a landscape planning system would help achieve
25 these goals. Landowners and resource managers should be provided
26 incentives to voluntarily develop long-term multispecies landscape
27 management plans that will provide protection to public resources.
28 Because landscape planning represents a departure from the use of
29 standard baseline rules and may result in unintended consequences to
30 both the affected habitats and to a landowner's economic interests, the
31 legislature desires to establish up to seven experimental pilot
32 programs to gain experience with landscape planning that may prove
33 useful in fashioning legislation of a more general application.

34 (1) Until December 31, 2000, the department in cooperation with the
35 department of fish and wildlife, and the department of ecology when

1 relating to water quality protection, is granted authority to select
2 not more than seven pilot projects for the purpose of developing
3 individual landowner multispecies landscape management plans.

4 (a) Pilot project participants must be selected by the department
5 in cooperation with the department of fish and wildlife, and the
6 department of ecology when relating to water quality protection, no
7 later than October 1, 1997.

8 (b) The number and the location of the pilot projects are to be
9 determined by the department in cooperation with the department of fish
10 and wildlife, and the department of ecology when relating to water
11 quality protection, and should be selected on the basis of risk to the
12 habitat and species, variety and importance of species and habitats in
13 the planning area, geographic distribution, surrounding ownership,
14 other ongoing landscape and watershed planning activities in the area,
15 potential benefits to water quantity and quality, financial and
16 staffing capabilities of participants, and other factors that will
17 contribute to the creation of landowner multispecies landscape planning
18 efforts.

19 (c) Each pilot project shall have a landscape management plan with
20 the following elements:

21 (i) An identification of public resources selected for coverage
22 under the plan and measurable objectives for the protection of the
23 selected public resources;

24 (ii) A termination date of not later than 2050;

25 (iii) A general description of the planning area including its
26 geographic location, physical and biological features, habitats, and
27 species known to be present;

28 (iv) An identification of the existing forest practices rules that
29 will not apply during the term of the plan;

30 (v) Proposed habitat management strategies or prescriptions;

31 (vi) A projection of the habitat conditions likely to result from
32 the implementation of the specified management strategies or
33 prescriptions;

34 (vii) An assessment of habitat requirements and the current habitat
35 conditions of representative species included in the plan;

36 (viii) An assessment of potential or likely impacts to
37 representative species resulting from the prescribed forest practices;

1 (ix) A description of the anticipated benefits to those species or
2 other species as a result of plan implementation;

3 (x) A monitoring plan;

4 (xi) Reporting requirements including a schedule for review of the
5 plan's performance in meeting its objectives;

6 (xii) Conditions under which a plan may be modified, including a
7 procedure for adaptive management;

8 (xiii) Conditions under which a plan may be terminated;

9 (xiv) A procedure for adaptive management that evaluates the
10 effectiveness of the plan to meet its measurable public resources
11 objectives, reflects changes in the best available science, and
12 provides changes to its habitat management strategies, prescriptions,
13 and hydraulic project standards to the extent agreed to in the plan and
14 in a timely manner and schedule;

15 (xv) A description of how the plan relates to publicly available
16 plans of adjacent federal, state, tribal, and private timberland
17 owners; and

18 (xvi) A statement of whether the landowner intends to apply for
19 approval of the plan under applicable federal law.

20 (2) Until December 31, 2000, the department, in agreement with the
21 department of fish and wildlife, and the department of ecology when the
22 landowner elects to cover water quality in the plan, shall approve a
23 landscape management plan and enter into a binding implementation
24 agreement with the landowner when such departments find, based upon the
25 best scientific data available, that:

26 (a) The plan contains all of the elements required under this
27 section including measurable public resource objectives;

28 (b) The plan is expected to be effective in meeting those
29 objectives;

30 (c) The landowner has sufficient financial resources to implement
31 the management strategies or prescriptions to be implemented by the
32 landowner under the plan;

33 (d) The plan will:

34 (i) Provide better protection than current state law for the public
35 resources selected for coverage under the plan considered in the
36 aggregate; and

37 (ii) Compared to conditions that could result from compliance with
38 current state law:

1 (A) Not result in poorer habitat conditions over the life of the
2 plan for any species selected for coverage that is listed as threatened
3 or endangered under federal or state law, or that has been identified
4 as a candidate for such listing, at the time the plan is approved; and

5 (B) Measurably improve habitat conditions for species selected for
6 special consideration under the plan;

7 (e) The plan shall include watershed analysis or provide for a
8 level of protection that meets or exceeds the protection that would be
9 provided by watershed analysis, if the landowner selects fish or water
10 quality as a public resource to be covered under the plan. Any
11 alternative process to watershed analysis would be subject to timely
12 peer review;

13 (f) The planning process provides for a public participation
14 process during the development of the plan, which shall be developed by
15 the department in cooperation with the landowner.

16 The management plans must be submitted to the department and the
17 department of fish and wildlife, and the department of ecology when the
18 landowner elects to cover water quality in the plan, no later than
19 March 1, 2000. The department shall provide an opportunity for public
20 comment on the proposed plan. The comment period shall not be less
21 than forty-five days. The department shall approve or reject plans
22 within one hundred twenty days of submittal by the landowner of a final
23 plan. The decision by the department, in agreement with the department
24 of fish and wildlife, and the department of ecology when the landowner
25 has elected to cover water quality in the plan, to approve or
26 disapprove the management plan is subject to the environmental review
27 process of chapter 43.21C RCW, provided that any public comment period
28 provided for under chapter 43.21C RCW shall run concurrently with the
29 public comment period provided in this subsection (2).

30 (3) After a landscape management plan is adopted(~~(+~~
31 ~~a))~~), forest practices consistent with the plan need not comply
32 with:

33 ~~((i))~~ (a) The specific forest practices rules identified in the
34 plan; and

35 ~~((ii))~~ (b) Any forest practice rules and policies adopted after
36 the approval of the plan to the extent that the rules:

37 ~~((A))~~ (i) Have been adopted primarily for the protection of a
38 public resource selected for coverage under the plan; or

1 (~~(B)~~) (ii) Provide for procedural or administrative obligations
2 inconsistent with or in addition to those provided for in the plan with
3 respect to those public resources(~~(; and~~

4 ~~(b) If the landowner has selected fish as one of the public~~
5 ~~resources to be covered under the plan, the plan shall serve as the~~
6 ~~hydraulic project approval for the life of the plan, in compliance with~~
7 ~~RCW 75.20.100)).~~

8 (4) The department is authorized to issue a single landscape level
9 permit valid for the life of the plan to a landowner who has an
10 approved landscape management plan and who has requested a landscape
11 permit from the department. Landowners receiving a landscape level
12 permit shall meet annually with the department and the department of
13 fish and wildlife, and the department of ecology where water quality
14 has been selected as a public resource to be covered under the plan, to
15 review the specific forest practices activities planned for the next
16 twelve months and to determine whether such activities are in
17 compliance with the plan. The departments will consult with the
18 affected Indian tribes and other interested parties who have expressed
19 an interest in connection with the review. The landowner is to provide
20 ten calendar days' notice to the department prior to the commencement
21 of any forest practices authorized under a landscape level permit. The
22 landscape level permit will not impose additional conditions relating
23 to the public resources selected for coverage under the plan beyond
24 those agreed to in the plan. For the purposes of chapter 43.21C RCW,
25 forest practices conducted in compliance with an approved plan are
26 deemed not to have the potential for a substantial impact on the
27 environment as to any public resource selected for coverage under the
28 plan.

29 (5) Except as otherwise provided in a plan, the agreement
30 implementing the landscape management plan is an agreement that runs
31 with the property covered by the approved landscape management plan and
32 the department shall record notice of the plan in the real property
33 records of the counties in which the affected properties are located.
34 Prior to its termination, no plan shall permit forest land covered by
35 its terms to be withdrawn from such coverage, whether by sale,
36 exchange, or other means, nor to be converted to nonforestry uses
37 except to the extent that such withdrawal or conversion would not
38 measurably impair the achievement of the plan's stated public resource

1 objectives. If a participant transfers all or part of its interest in
2 the property, the terms of the plan still apply to the new landowner
3 for the plan's stated duration unless the plan is terminated under its
4 terms or unless the plan specifies the conditions under which the terms
5 of the plan do not apply to the new landowner.

6 (6) The departments of natural resources, fish and wildlife, and
7 ecology shall seek to develop memorandums of agreements with federal
8 agencies and affected Indian tribes relating to tribal issues in the
9 landscape management plans. The departments shall solicit input from
10 affected Indian tribes in connection with the selection, review, and
11 approval of any landscape management plan. If any recommendation is
12 received from an affected Indian tribe and is not adopted by the
13 departments, the departments shall provide a written explanation of
14 their reasons for not adopting the recommendation.

15 (7) The department is directed to report to the forest practices
16 board annually through the year 2000, but no later than December 31st
17 of each year, on the status of each pilot project. The department is
18 directed to provide to the forest practices board, no later than
19 December 31, 2000, an evaluation of the pilot projects including a
20 determination if a permanent landscape planning process should be
21 established along with a discussion of what legislative and rule
22 modifications are necessary.

23 **Sec. 5.** RCW 77.55.080 and 1983 1st ex.s. c 46 s 74 are each
24 amended to read as follows:

25 (1) Before a person commences construction on a dam or other
26 (~~hydraulic project~~) obstruction across or in a stream for which the
27 director determines that a fishway is impractical, the person shall at
28 the option of the director:

29 ~~((1))~~ (a) Convey to the state a fish cultural facility on a site
30 satisfactory to the director and constructed according to plans and
31 specifications approved by the director, and enter into an agreement
32 with the director secured by sufficient bond, to furnish water and
33 electricity, without expense, and funds necessary to operate and
34 maintain the facilities; or

35 ~~((2))~~ (b) Enter into an agreement with the director secured by
36 sufficient bond to make payments to the state as the director
37 determines are necessary to expand, maintain, and operate additional

1 facilities at existing hatcheries within a reasonable distance of the
2 dam or other (~~hydraulic work~~) obstruction across or in a stream to
3 compensate for the damages caused by the dam or other hydraulic work.

4 ~~((3))~~ (2) A decision of the director under this section is
5 subject to review in the superior court of the state for Thurston
6 county. (~~Each day that a person carries on construction work or~~
7 ~~operates a dam or hydraulic project without complying with this section~~
8 ~~is a separate offense.~~)

9 **Sec. 6.** RCW 77.55.130 and 2000 c 107 s 18 are each amended to read
10 as follows:

11 The department and the department of ecology will work
12 cooperatively with the United States army corps of engineers to develop
13 a memorandum of agreement outlining dike vegetation management
14 guidelines so that dike owners are eligible for coverage under P.L.
15 84-99(~~, and state requirements established pursuant to RCW 77.55.100~~
16 ~~and 77.55.110 are met~~)).

17 **Sec. 7.** RCW 77.55.160 and 1998 c 190 s 89 are each amended to read
18 as follows:

19 (1) Except for the north fork of the Lewis river and the White
20 Salmon river, all streams and rivers tributary to the Columbia river
21 downstream from McNary dam are established as an anadromous fish
22 sanctuary. This sanctuary is created to preserve and develop the food
23 fish and game fish resources in these streams and rivers and to protect
24 them against undue industrial encroachment.

25 (2) Within the sanctuary area:

26 (a) (~~The department shall not issue hydraulic project approval~~
27 ~~to~~) No public or private entity may construct a dam greater than
28 twenty-five feet high within the migration range of anadromous fish as
29 determined by the department.

30 (b) A person shall not divert water from rivers and streams in
31 quantities that will reduce the respective stream flow below the annual
32 average low flow, based upon data published in United States geological
33 survey reports.

34 (3) The commission may acquire and abate a dam or other
35 obstruction, or acquire any water right vested on a sanctuary stream or

1 river, which is in conflict with the provisions of subsection (2) of
2 this section.

3 (4) Subsection (2)(a) of this section does not apply to the
4 sediment retention structure to be built on the North Fork Toutle river
5 by the United States army corps of engineers.

6 **Sec. 8.** RCW 77.55.270 and 1997 c 415 s 2 are each amended to read
7 as follows:

8 (1) ~~((Small scale prospecting and mining shall not require written
9 approval under this chapter if the prospecting is conducted in
10 accordance with provisions established by the department.~~

11 ~~(2))~~ By December 31, 1998, the department shall adopt rules
12 applicable to small scale prospecting and mining activities subject to
13 this section. The department shall develop the rules in cooperation
14 with the recreational mining community and other interested parties.

15 ~~((3))~~ (2) Within two months of adoption of the rules, the
16 department shall distribute an updated gold and fish pamphlet that
17 describes methods of mineral prospecting that are consistent with the
18 department's rule. The pamphlet shall be written to clearly indicate
19 the prospecting methods that require written approval under this
20 chapter and the prospecting methods that require compliance with the
21 pamphlet. ~~((To the extent possible, the department shall use the
22 provisions of the gold and fish pamphlet to minimize the number of
23 specific provisions of a written approval issued under this chapter.~~

24 ~~(4))~~ (3) For the purposes of this chapter, "small scale
25 prospecting and mining" means only the use of the following methods:
26 Pans, nonmotorized sluice boxes, concentrators, and minirocker boxes
27 for the discovery and recovery of minerals.

28 **Sec. 9.** RCW 77.55.290 and 2001 c 253 s 55 are each amended to read
29 as follows:

30 (1) ~~((In order to receive the permit review and approval process
31 created in this section, a fish habitat enhancement project must meet
32 the criteria under (a) and (b) of this subsection:))~~

33 (a) A fish habitat enhancement project must be a project to
34 accomplish one or more of the following tasks:

35 (i) Elimination of human-made fish passage barriers, including
36 culvert repair and replacement;

1 (ii) Restoration of an eroded or unstable stream bank employing the
2 principle of bioengineering, including limited use of rock as a
3 stabilization only at the toe of the bank, and with primary emphasis on
4 using native vegetation to control the erosive forces of flowing water;
5 or

6 (iii) Placement of woody debris or other instream structures that
7 benefit naturally reproducing fish stocks.

8 ~~((The department shall develop size or scale threshold tests to
9 determine if projects accomplishing any of these tasks should be
10 evaluated under the process created in this section or under other
11 project review and approval processes. A project proposal shall not be
12 reviewed under the process created in this section if the department
13 determines that the scale of the project raises concerns regarding
14 public health and safety; and))~~

15 (b) A fish habitat enhancement project must be approved in one of
16 the following ways:

17 ~~((By the department pursuant to chapter 77.95 or 77.100 RCW;
18 (ii)))~~ By the sponsor of a watershed restoration plan as provided
19 in chapter 89.08 RCW;

20 ~~((iii)))~~ (ii) By the department as a department-sponsored fish
21 habitat enhancement or restoration project;

22 ~~((iv) Through the review and approval process for the jobs for the
23 environment program;~~

24 ~~(v))~~ (iii) Through the review and approval process for
25 conservation district-sponsored projects, where the project complies
26 with design standards established by the conservation commission
27 through interagency agreement with the United States fish and wildlife
28 service and the natural resource conservation service;

29 ~~((vi))~~ (iv) Through a formal grant program established by the
30 legislature or the department for fish habitat enhancement or
31 restoration; and

32 ~~((vii))~~ (v) Through other formal review and approval processes
33 established by the legislature or the federal government.

34 (2) Fish habitat enhancement projects meeting the criteria of
35 subsection (1)(a) of this section are expected to result in beneficial
36 impacts to the environment. Decisions pertaining to fish habitat
37 enhancement projects meeting the criteria of subsection (1)(a) of this

1 section and being reviewed and approved according to the provisions of
2 subsection (1)(b) of this section are not subject to the requirements
3 of RCW 43.21C.030(2)(c).

4 ~~(3) ((Hydraulic project approval is required for projects that meet
5 the criteria of subsection (1) of this section and are being reviewed
6 and approved under this section. An applicant shall use a joint
7 aquatic resource permit application form developed by the department of
8 ecology permit assistance center to apply for approval under this
9 chapter. On the same day, the applicant shall provide copies of the
10 completed application form to the department and to each appropriate
11 local government. Local governments shall accept the application as
12 notice of the proposed project. The department shall provide a
13 fifteen day comment period during which it will receive comments
14 regarding environmental impacts. In no more than forty five days, the
15 department shall either issue hydraulic project approval, with or
16 without conditions, deny approval, or make a determination that the
17 review and approval process created by this section is not appropriate
18 for the proposed project. The department shall base this determination
19 on identification during the comment period of adverse impacts that
20 cannot be mitigated by hydraulic project approval. If the department
21 determines that the review and approval process created by this section
22 is not appropriate for the proposed project, the department shall
23 notify the applicant and the appropriate local governments of its
24 determination. The applicant may reapply for approval of the project
25 under other review and approval processes.~~

26 ~~Any person aggrieved by the approval, denial, conditioning, or
27 modification of hydraulic project approval under this section may
28 formally appeal the decision to the hydraulic appeals board pursuant to
29 the provisions of this chapter.~~

30 ~~(4))~~ No local government may require permits or charge fees for
31 fish habitat enhancement projects that meet the criteria of subsection
32 (1)(b) of this section and that are reviewed and approved according to
33 the provisions of this section.

34 **Sec. 10.** RCW 77.55.300 and 2000 c 107 s 229 are each amended to
35 read as follows:

36 (1) Beginning in January 1998, the department of fish and wildlife
37 and the department of natural resources shall implement a habitat

1 incentives program based on the recommendations of federally recognized
2 Indian tribes, landowners, the regional fisheries enhancement groups,
3 the timber, fish, and wildlife cooperators, and other interested
4 parties. The program shall allow a private landowner to enter into an
5 agreement with the departments to enhance habitat on the landowner's
6 property for food fish, game fish, or other wildlife species. In
7 exchange, the landowner shall receive state regulatory certainty with
8 regard to future applications for (~~hydraulic project approval or~~) a
9 forest practices permit on the property covered by the agreement. The
10 overall goal of the program is to provide a mechanism that facilitates
11 habitat development on private property while avoiding an adverse state
12 regulatory impact to the landowner at some future date. A single
13 agreement between the departments and a landowner may encompass up to
14 one thousand acres. A landowner may enter into multiple agreements
15 with the departments, provided that the total acreage covered by such
16 agreements with a single landowner does not exceed ten thousand acres.
17 The departments are not obligated to enter into an agreement unless the
18 departments find that the agreement is in the best interest of
19 protecting fish or wildlife species or their habitat.

20 (2) A habitat incentives agreement shall be in writing and shall
21 contain at least the following: A description of the property covered
22 by the agreement, an expiration date, a description of the condition of
23 the property prior to the implementation of the agreement, and other
24 information needed by the landowner and the departments for future
25 reference and decisions.

26 (~~(3) (As part of the agreement, the department of fish and wildlife
27 may stipulate the factors that will be considered when the department
28 evaluates a landowner's application for hydraulic project approval
29 under RCW 77.55.100 or 77.55.110 on property covered by the agreement.
30 The department's identification of these evaluation factors shall be in
31 concurrence with the department of natural resources and affected
32 federally recognized Indian tribes. In general, future decisions
33 related to the issuance, conditioning, or denial of hydraulic project
34 approval shall be based on the conditions present on the landowner's
35 property at the time of the agreement, unless all parties agree
36 otherwise.~~

37 (4)) As part of the agreement, the department of natural resources
38 may stipulate the factors that will be considered when the department

1 evaluates a landowner's application for a forest practices permit under
2 chapter 76.09 RCW on property covered by the agreement. The
3 department's identification of these evaluation factors shall be in
4 concurrence with the department of fish and wildlife and affected
5 federally recognized Indian tribes. In general, future decisions
6 related to the issuance, conditioning, or denial of forest practices
7 permits shall be based on the conditions present on the landowner's
8 property at the time of the agreement, unless all parties agree
9 otherwise.

10 ~~((+5))~~ (4) The agreement is binding on and may be used by only the
11 landowner who entered into the agreement with the department. The
12 agreement shall not be appurtenant with the land. However, if a new
13 landowner chooses to maintain the habitat enhancement efforts on the
14 property, the new landowner and the departments may jointly choose to
15 retain the agreement on the property.

16 ~~((+6))~~ (5) If the departments receive multiple requests for
17 agreements with private landowners under the habitat incentives
18 program, the departments shall prioritize these requests and shall
19 enter into as many agreements as possible within available budgetary
20 resources.

21 **Sec. 11.** RCW 89.08.470 and 1998 c 249 s 13 are each amended to
22 read as follows:

23 (1) By January 1, 1996, the Washington conservation commission
24 shall develop, in consultation with other state agencies, tribes, and
25 local governments, a consolidated application process for permits for
26 a watershed restoration project developed by an agency or sponsored by
27 an agency on behalf of a volunteer organization. The consolidated
28 process shall include a single permit application form for use by all
29 responsible state and local agencies. The commission shall encourage
30 use of the consolidated permit application process by any federal
31 agency responsible for issuance of related permits. The permit
32 application forms to be consolidated shall include, at a minimum,
33 applications for: (a) Approvals related to water quality standards
34 under chapter 90.48 RCW; and (b) ~~((hydraulic project approvals under
35 chapter 75.20 RCW; and (c))~~) section 401 water quality certifications
36 under 33 U.S.C. Sec. 1341 and chapter 90.48 RCW.

1 (2) If a watershed restoration project is also a fish habitat
2 enhancement project that meets the criteria of RCW ((75.20.350(1))
3 77.55.290(1), the project sponsor shall instead follow the permit
4 review and approval process established in RCW ((75.20.350)) 77.55.290
5 with regard to state and local government permitting requirements. The
6 sponsor shall so notify state and local permitting authorities.

7 **Sec. 12.** RCW 90.58.147 and 1998 c 249 s 4 are each amended to read
8 as follows:

9 (1) A public or private project that is designed to improve fish or
10 wildlife habitat or fish passage shall be exempt from the substantial
11 development permit requirements of this chapter when all of the
12 following apply:

13 (a) The project has been approved by the department of fish and
14 wildlife; and

15 (b) (~~The project has received hydraulic project approval by the~~
16 ~~department of fish and wildlife pursuant to chapter 75.20 RCW; and~~

17 ~~(c))~~) The local government has determined that the project is
18 substantially consistent with the local shoreline master program. The
19 local government shall make such determination in a timely manner and
20 provide it by letter to the project proponent.

21 (2) Fish habitat enhancement projects that conform to the
22 provisions of RCW ((75.20.350)) 77.55.290 are determined to be
23 consistent with local shoreline master programs.

24 NEW SECTION. **Sec. 13.** The following acts or parts of acts are
25 each repealed:

26 (1) RCW 77.15.300 (Unlawful hydraulic project activities--Penalty)
27 and 2000 c 107 s 239 & 1998 c 190 s 52;

28 (2) RCW 77.55.020 (Environmental excellence program agreements--
29 Effect on chapter) and 1997 c 381 s 25;

30 (3) RCW 77.55.030 (Hazardous substance remedial actions--Procedural
31 requirements not applicable) and 1994 c 257 s 18;

32 (4) RCW 77.55.090 (Mitigation plan review) and 2000 c 107 s 15 &
33 1997 c 424 s 6;

34 (5) RCW 77.55.100 (Hydraulic projects or other work--Plans and
35 specifications--Permits--Approval--Emergencies) and 2002 c 368 s 2,
36 2000 c 107 s 16, & 1998 c 190 s 87;

1 (6) RCW 77.55.110 (Hydraulic projects for irrigation, stock
2 watering, or streambank stabilization--Plans and specifications--
3 Approval--Emergencies) and 2002 c 368 s 3, 1998 c 190 s 88, 1993 sp.s.
4 c 2 s 32, 1991 c 322 s 31, 1988 c 272 s 2, 1988 c 36 s 34, & 1986 c 173
5 s 2;

6 (7) RCW 77.55.120 (Placement of woody debris as condition of
7 permit) and 2000 c 107 s 17, 1993 sp.s. c 2 s 33, & 1991 c 322 s 18;

8 (8) RCW 77.55.140 (Hydraulic projects--Civil penalty) and 2000 c
9 107 s 19, 1993 sp.s. c 2 s 35, 1988 c 36 s 35, & 1986 c 173 s 6;

10 (9) RCW 77.55.150 (Hydraulic projects for removal or control of
11 spartina, purple loosestrife, and aquatic noxious weeds--Approval may
12 not be required--Rules--Definitions) and 1995 c 255 s 4;

13 (10) RCW 77.55.170 (Hydraulic appeals board--Members--
14 Jurisdiction--Procedures) and 2000 c 107 s 20, 1996 c 276 s 2, 1993
15 sp.s. c 2 s 37, 1989 c 175 s 160, 1988 c 272 s 3, 1988 c 36 s 37, &
16 1986 c 173 s 4;

17 (11) RCW 77.55.180 (Hydraulic appeals board--Procedures) and 1995
18 c 382 s 7, 1989 c 175 s 161, & 1986 c 173 s 5;

19 (12) RCW 77.55.190 (Processing of permits or authorizations for
20 emergency water withdrawal and facilities to be expedited) and 1989 c
21 171 s 8 & 1987 c 343 s 6;

22 (13) RCW 77.55.200 (Marine beach front protective bulkheads or
23 rockwalls) and 1991 c 279 s 1;

24 (14) RCW 77.55.210 (Watershed restoration projects--Hydraulic
25 project approval--Permit processing) and 1995 c 378 s 14;

26 (15) RCW 77.55.220 (Definitions--Hydraulic project approval--
27 Regular maintenance--Notice required) and 2002 c 368 s 7 & 1996 c 192
28 s 2;

29 (16) RCW 77.55.230 (Hydraulic projects--Off-site mitigation) and
30 1996 c 276 s 1;

31 (17) RCW 77.55.250 (Wetlands filled under RCW 75.20.300--Mitigation
32 not required) and 2000 c 107 s 21 & 1995 c 328 s 1;

33 (18) RCW 77.55.260 (Sediment dredging or capping actions--Dredging
34 of existing channels and berthing areas--Mitigation not required) and
35 1997 c 424 s 5;

36 (19) RCW 77.55.280 (Hydraulic project approval--Habitat incentives
37 agreement) and 2001 c 253 s 54 & 1997 c 425 s 4;

1 (20) RCW 77.55.330 (Derelict fishing gear--Removal) and 2002 c 20
2 s 4;

3 (21) RCW 77.55.340 (Hydraulic project approvals--Storm water
4 discharges) and 2002 c 368 s 4;

5 (22) RCW 77.55.350 (Hydraulic project approvals--Reasonable
6 conditions) and 2002 c 368 s 5; and

7 (23) RCW 77.55.360 (Certain secure community transition facilities
8 not subject to this chapter) and 2002 c 68 s 14.

9 NEW SECTION. **Sec. 14.** This act is necessary for the immediate
10 preservation of the public peace, health, or safety, or support of the
11 state government and its existing public institutions, and takes effect
12 July 1, 2003.

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