

SENATE BILL REPORT

2SHB 1346

As Reported By Senate Committee On:
Natural Resources, Ocean & Recreation, March 30, 2005

Title: An act relating to regulatory reform of the hydraulic project approval program.

Brief Description: Improving the efficiency and predictability of the hydraulic project approval program.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Buck, B. Sullivan, Kretz, DeBolt, Blake, Eickmeyer and Takko).

Brief History: Passed House: 3/11/05, 94-0.

Committee Activity: Natural Resources, Ocean & Recreation: 3/21/05, 3/30/05 [DP].

SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

Majority Report: Do pass.

Signed by Senators Jacobsen, Chair; Doumit, Vice Chair; Oke, Ranking Minority Member; Fraser, Morton, Spanel, Stevens and Swecker.

Staff: Vic Moon (786-7469)

Background: A person must obtain a hydraulic project approval (HPA) for any project that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state before beginning construction. The HPAs are issued by the Department of Fish and Wildlife (WDFW) to ensure the proper protection of fish life.

The WDFW is statutorily authorized to issue programmatic HPAs for small scale mining and prospecting, and for activities or projects conducted solely for the removal or control of certain aquatic weeds. The programmatic approval is in lieu of an applicant obtaining an individual HPA. Under the programmatic approval process, the WDFW publishes a pamphlet that states the rules for that activity.

The HPA decisions may be appealed to the Director of the WDFW (Director) under the provisions of the Administrative Procedure Act. The appeal may be heard by the Director or an administrative law judge, but final appeal decisions are made by the Director. Certain appeals related to agriculture or off-site mitigation are heard by the Hydraulic Appeals Board (Board), consisting of the Directors of the WDFW, the Department of Ecology, and the Department of Agriculture.

Engrossed Substitute Senate Bill 6387, Section 307 (23) passed by the 2002 Legislature created the Hydraulic Project Approval Task Force (Task Force). The Task Force was directed to conduct an evaluation of the HPA program and make recommendations to the Legislature by November 30, 2002. The Task Force recommended all formal HPA appeals

should be the jurisdiction of the Board. The Task Force also recommended that the WDFW cooperate with other regulatory agencies to avoid duplicate reviews and project delays.

Summary of Bill: Legislative intent is established to clarify the WDFW's authority under the hydraulics code and streamline the hydraulic project approval process to improve consistency and predictability while ensuring the protection of fish life. The hydraulics statute is reorganized and updated.

Appropriation: None.

Fiscal Note: Available on original House bill.

Committee/Commission/Task Force Created: No.

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

Testimony For: The hydraulic project statutes need to be reorganized so that they can be understood and can work better. The bill before the legislature has no policy changes and is a reorganization on existing law.

Testimony Against: None.

Who Testified: PRO: Rep Jim Buck; John Stuhlmiller, Farm Bureau; Ed Owens, Coalition of Coastal Fisheries; Heath Packard, Audubon; Eric Johnson, Washington Public Ports Association; Greg Hueckel, Department of Fish and Wildlife; Paul Parker, Association of Counties.