

SENATE BILL REPORT

HB 1598

As Reported By Senate Committee On:
Natural Resources, Ocean & Recreation, March 28, 2007

Title: An act relating to accountability in the funding of salmon recovery.

Brief Description: Requiring recipients of money from the salmon recovery funding board to agree to disclose information regarding the funding in compliance with chapter 42.56 RCW.

Sponsors: Representatives Kretz, Ericks, Blake, Pettigrew, Armstrong, Warnick, Sump, Upthegrove, Newhouse, Kristiansen and Condotta.

Brief History: Passed House: 2/26/07, 93-0.

Committee Activity: Natural Resources, Ocean & Recreation: 3/21/07, 3/28/07 [DPA].

SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

Majority Report: Do pass as amended.

Signed by Senators Jacobsen, Chair; Rockefeller, Vice Chair; Morton, Ranking Minority Member; Fraser, Hargrove, Poulsen, Spanel, Stevens and Swecker.

Staff: Kim Johnson (786-7346)

Background: The Public Records Act (Act) requires that government agencies, upon request, must disclose all "public records," unless exempted by statute or common law. "Public record" is defined as any record "relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics." The Act applies to records created in the course of government business.

The Salmon Recovery Funding Board (SRFB) makes grants and loans for salmon habitat projects and salmon recovery activities from a pool of available state and federal dollars. Entities receiving block grants from the SRFB must provide annual reports to the SRFB summarizing how funds were expended, including the types of projects funded, project outcomes, monitoring results, and administrative costs.

Nonprofit organizations may be project sponsors, receiving funding from the SRFB. However, nonprofit organizations are not currently subject to the public disclosure requirements of state agencies under the Act.

Summary of Bill: Before a project sponsor or other entity may receive funding from the SRFB, it must contractually agree to disclose information related to the funding received. The

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information that the entity must agree to disclose is any information that the entity would have to disclose if it were subject to the Act. This requirement exists whether the funding is direct or indirect.

EFFECT OF CHANGES MADE BY RECOMMENDED AMENDMENT(S) AS PASSED COMMITTEE (Natural Resources, Ocean & Recreation): The requirement that entities, other than the project sponsor, that receive funds directly or indirectly from the Salmon Recovery Funding Board be subject to contractual disclosure provisions is removed. The information that must be disclosed by a project sponsor is limited to information related to the expenditure of the funds.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: This bill creates transparency and accountability for those entities taking public monies from the Salmon Recovery Funding Board. To date, \$155 million has been spent in the Upper Columbia Basin alone. The bill responds to an experience in which a non-profit organization receiving SRFB funding declined to respond to a public records request, noting that it was not subject to public disclosure requirements. This bill is in line with the Attorney General's policy of enhancing the public's ability to hold the government accountable by increasing the ability of the public to stay informed of government actions.

CON: We do believe that a project sponsor should be subject to public disclosure laws. Our concern lies with the language of "other entities directly or indirectly receiving funding." This language would then apply to all of our secondary contractors. Nowhere else in state law do we subject subcontractors and other private businesses to public disclosure laws.

OTHER: We fully support the open public records act. Currently, the SRFB provides grants to public agencies, local governments, non-profit entities, and private landowners. The grants are paid out on a reimbursement basis. All of the contracts, photos, bills, etc. are availed and open to the public already. Our concern is how far the bill goes and maybe the unintended consequences. The language regarding "other entities receiving funds directly or indirectly" could mean contractors and subcontractors, suppliers, and private landowners. The public records act was really intended for public entities and some people feel that this would serve as a disincentive to participate in salmon recovery projects.

Persons Testifying: PRO: Representative Joel Kretz, prime sponsor; Greg Overstreet, Attorney General's Office; Rowland Thompson, Allied Daily Newspapers.

CON: Eric Johnson, Washington Association of Counties.

OTHER: Jim Fox, Interagency Committee on Outdoor Recreation.