

SENATE BILL REPORT

SHB 2525

As Reported By Senate Committee On:
Natural Resources, Ocean & Recreation, February 28, 2008

Title: An act relating to mitigating flood damage.

Brief Description: Mitigating flood damage.

Sponsors: House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Pearson, Kretz, Kristiansen and Ross).

Brief History: Passed House: 2/19/08, 87-8.

Committee Activity: Natural Resources, Ocean & Recreation: 2/25/08, 2/28/08 [DPA].

SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

Majority Report: Do pass as amended.

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

Staff: Curt Gavigan (786-7437)

Background: A hydraulic project approval (HPA) is required 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. HPAs are issued by the Department of Fish and Wildlife (DFW) to ensure the proper protection of fish life.

DFW has the authority to issue expedited permits in cases of imminent danger for work to repair existing structures, move obstructions, restore banks, protect property, or protect fish resources. Imminent danger includes threats by weather, water flow, or other natural conditions that are likely to occur within 60 days of a request of a permit. Either DFW or the county legislative authority may determine if an imminent danger exists.

In emergencies, DFW must issue, upon request, oral approval for removing any obstructions, repairing existing structures, restoring stream banks, or protecting property threatened by the stream, without the necessity of a person obtaining a written approval prior to commencing work. An emergency means an immediate threat to life, the public, property, or environmental degradation. Either DFW or the county legislative authority may determine if an emergency exists.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill (Recommended Amendments): A declared state of emergency by the Governor constitutes an emergency for purposes of HPA processing. Currently, only DFW or the county legislative authority may determine if an emergency exists.

A county may declare that a chronic danger exists for a particular property if that property has experienced at least two consecutive years of flooding or erosion that damages or threatens to damage specified improvements. Upon request DFW may issue an HPA that allows for obstructions to be removed, existing structures to be repaired, banks and road access to be restored, and private property and fish resources to be protected if a chronic danger is declared.

An HPA issued under the chronic danger process is generally subject to the general application requirements and must be issued within 45 days. However, projects to restore an eroded or unstable streambank that primarily uses native vegetation to control erosion are not subject to the State Environmental Policy Act.

DFW must provide affected federally recognized tribes with notice of HPA applications and must accept their comments.

EFFECT OF CHANGES MADE BY NATURAL RESOURCES, OCEAN & RECREATION COMMITTEE (Recommended Amendments): Makes permissive DFW's authority to issue an HPA when a chronic danger is declared. Directs DFW to provide affected federally recognized tribes with notice of HPA applications and to accept their comments.

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 on Substitute Bill: PRO: Counties need tools to respond quickly to flood events, while avoiding having to mitigate after the fact. Counties must act to prevent public health and welfare with limited resources. This approach adds a tool to the toolbox for counties and landowners to respond to floods while also promoting projects that use vegetation to prevent erosion.

CON: Tribal governments consider themselves co-managers of the state's fisheries resource, and hydraulic project approvals are the only in-river protection for fish. However, amendments in the House have improved the language of the original bill.

Persons Testifying: PRO: Robert Johnson, Lewis County; Peter Birch, Department of Fish and Wildlife; Jack Field, Washington Cattlemen's Association.

CON: Dawn Vyvyan, Yakima Nation and Puyallup Tribe.