

SENATE BILL REPORT

SSB 5733

As Reported By Senate Committee On:
Natural Resources, Ocean & Recreation, February 07, 2008

Title: An act relating to flood protection.

Brief Description: Regarding hydraulic project permit approval for projects intended to reduce or eliminate damage from floods.

Sponsors: Senate Committee on Natural Resources, Ocean & Recreation (originally sponsored by Senators Stevens and Jacobsen).

Brief History:

Committee Activity: Natural Resources, Ocean & Recreation: 2/19/07, 2/28/07 [DPS, DNP]; 2/07/08 [DP].

Passed Senate: 3/12/07, 48-1.

SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

Majority Report: Do pass.

Signed by Senators Jacobsen, Chair; Hatfield, Vice Chair; Hargrove, Rockefeller and Stevens.

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 Washington Department of Fish and Wildlife (DFW) to ensure the proper protection of fish life. The 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 the DFW or the county legislative authority may determine if an imminent danger exists.

In emergencies, the 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.

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 Substitute Bill: A county is required to declare that a chronic danger exists for a particular property if that property has experienced at least two consecutive years of flooding or erosion. Upon request DFW must 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.

The permit is subject to the full application requirements and must be issued within 45 days. The exemption from State Environmental Policy Act for "chronic danger" permits is removed.

Properties boarding a marine shoreline are not eligible for a "chronic danger" declaration and permit.

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: Fish and Wildlife is told that they may issue a permit, but without a law to tell them that they have to issue the permit, the agency will not help these people protect their property. Our family has been trying to get this permit for 16 years. The river, because of a log jam, changed course and began to run directly at my parents' home. My mother was told that it would cost the department millions for them to fix. She finally got the permit after 16 years and with a piece of machinery and \$7,000 cleared the jam and the river went back to its banks.

CON: We're working with the farm bureau on this bill. We understand that there may be a need to declare something a chronic problem rather than waiting for something to become an emergency. The bill as written would create a category that requires that we issue a permit immediately. We need more time, especially when this is not an emergency. These are complex issues that stretch across many jurisdictions and can't be fixed quickly. We also oppose this because it does not go through the State Environmental Protection Act process.

People continue to move into these areas and expect the tax payers to bail them out, and we should not allow this to happen. We are trying to encourage people to use more environmentally friendly armoring that will protect their property than hard armor.

Persons Testifying: PRO: Steve Hammond, Citizen's Alliance for Property Rights; Lisa Dilley, Olympic View Dairy; Dan Wood, Farm Bureau.

CON: Greg Hueckel, DFW; Bruce Wishart, People For Puget Sound.