S-3651.2

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**SENATE BILL 5885**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Senators Salomon, Stanford, Hasegawa, Keiser, Lovelett, Nobles, and Rolfes

AN ACT Relating to marine shoreline habitat; amending RCW 77.55.231; and adding a new section to chapter 90.58 RCW.

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

NEW SECTION. **Sec.**  A new section is added to chapter 90.58 RCW to read as follows:

(1) By January 1, 2023, the department must conduct a baseline survey of Puget Sound marine shorelines that renews oblique shoreline aerial imagery and incorporates the use of new technology to create a 360 degree on-the-water comprehensive view of the shoreline. The marine shoreline survey must be updated on a regular two-year cycle. The survey must document and map existing shoreline conditions, structures, and structure conditions, including structures in disrepair and structures that are derelict, and must be available to the public and incorporated into state geographic information system mapping.

(2) Upon completion of regular surveys, state and local permitting agencies must compare permit data with survey results to identify unpermitted development subject to potential enforcement action. This information must be incorporated into publicly available mapping resources.

**Sec.**  RCW 77.55.231 and 2021 c 279 s 2 are each amended to read as follows:

(1)(a) Conditions imposed upon a permit must be reasonably related to the project. The permit conditions must ensure that the project provides proper protection for fish life, but the department may not impose conditions that attempt to optimize conditions for fish life that are out of proportion to the impact of the proposed project.

(b) In the event that any person desires to replace residential marine shoreline stabilization or armoring, a person must use the least impacting technically feasible bank protection alternative for the protection of fish life. Unless the department provides an exemption depending on the scale and nature of the project, a person that desires to replace residential marine shoreline stabilization or armoring must conduct a site assessment to consider the least impactful alternatives. A person should propose a hard armor technique only after considering site characteristics such as the threat to major improvements, wave energy, and other factors in an analysis of alternatives. The common alternatives identified in (b)(i) through (vii) of this subsection are in order from most preferred to least preferred:

(i) Remove the structure and restore the beach;

(ii) Remove the structure and install native vegetation;

(iii) Remove the structure and control upland drainage;

(iv) Remove the structure and replace it with a soft structure constructed of natural materials, including bioengineering;

(v) Remove the hard structure and construct upland retaining walls;

(vi) Remove the hard structure and replace it with a hard structure located landward of the existing structure, preferably at or above the ordinary high water line; or

(vii) Remove the hard structure and replace it with hard shoreline structure in the same footprint as the existing structure.

(c) For the purposes of this subsection, "feasible" means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

(d) In the event that any person desires to replace a marine structure in the waters of Puget Sound, the marine replacement structure must meet the same design and technical standards as a new structure.

(2) The permit must contain provisions allowing for minor modifications to the plans and specifications without requiring reissuance of the permit.

(3) The permit must contain provisions that allow for minor modifications to the required work timing without requiring the reissuance of the permit. "Minor modifications to the required work timing" means a minor deviation from the timing window set forth in the permit when there are no spawning or incubating fish present within the vicinity of the project.

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