

HOUSE BILL REPORT

ESHB 1758

As Passed House:
February 28, 2023

Title: An act relating to permitting for certain hatchery maintenance activities.

Brief Description: Concerning permitting for certain hatchery maintenance activities.

Sponsors: House Committee on Environment & Energy (originally sponsored by Representatives Mena, Fitzgibbon, Chapman, Morgan and Reed).

Brief History:

Committee Activity:

Environment & Energy: 2/7/23, 2/13/23 [DPS].

Floor Activity:

Passed House: 2/28/23, 97-0.

Brief Summary of Engrossed Substitute Bill

- Exempts certain actions undertaken by the Department of Fish and Wildlife, a federally recognized Indian tribe, or a public utility district to maintain fish hatcheries from Shoreline Management Act permits, variances, and local government review.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Doglio, Chair; Mena, Vice Chair; Dye, Ranking Minority Member; Ybarra, Assistant Ranking Minority Member; Abbarno, Barnard, Berry, Couture, Duerr, Fey, Goehner, Lekanoff, Ramel, Slatter and Street.

Staff: Robert Hatfield (786-7117).

Background:

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

Shoreline Management Act Permits.

The Shoreline Management Act (SMA) of 1971 requires that most developments near state shorelines be consistent with shoreline master programs, which are plans developed by local governments for the uses of their shoreline areas. Certain projects require a substantial development permit that is reviewed by the local government and filed with the Department of Ecology. Projects that require a substantial development permit include developments exceeding a cost of \$8,504 as adjusted for inflation by the Office of Financial Management in July 2022, or any development that materially interferes with the normal public use of the water or shorelines of the state. In certain property-specific circumstances, variance permits or conditional use permits may be issued by a local government that allow for development that is not consistent with the local shoreline master program.

Certain projects and activities, such as maintenance, repair, or replacement activities within the roadway prism of state highways, or the lease or ownership area of state ferry terminals and transit facilities, are exempted from requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other local government review conducted to implement the SMA.

Summary of Engrossed Substitute Bill:

The following activities undertaken by the Department of Fish and Wildlife, a federally recognized Indian tribe, or a public utility district to maintain the operation of fish hatcheries, including water intakes and discharges, fish ladders, water and power conveyances, weirs, and racks and traps used for fish collection, do not require a substantial development permit, conditional use permit, variance, letter of exemption, or other review conducted by a local government pursuant to the Shoreline Management Act (SMA):

- maintenance, repair, or replacement of equipment and components that support the larger hatchery facility and occur within the existing footprint of fish hatchery facilities;
- construction or installation of safety structures and equipment;
- maintenance occurring within existing water intake and outflow sites during times when fish presence is minimized; or
- construction undertaken in response to unforeseen, extraordinary circumstances that is necessary to prevent a decline, lapse, or cessation of operation of a state fish hatchery facility.

The proponent of a fish hatchery maintenance project must ensure compliance with the substantive requirements of the SMA for fish hatchery maintenance projects described above. Fish hatchery maintenance projects must not adversely affect public access or shoreline ecological functions.

Prior to beginning a maintenance or repair project, the proponent of the project must provide written notification of projects authorized under the act to the local government with jurisdiction and to the Department of Ecology.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) One federally recognized Indian tribe operates over a dozen hatcheries and related facilities that deal with multiple salmon species. Maintenance activities related to acclimation ponds should be included in the bill.

This is essentially a clarification bill. Certain maintenance and repair activities are already exempt from permitting under the Shoreline Management Act, but there is a bit of a gray area for certain activities related to hatchery maintenance.

(Opposed) None.

Persons Testifying: Representative Sharlett Mena, prime sponsor; Tom McBride, Department of Fish and Wildlife; Tim Gates, Department of Ecology; and Donella Miller, Yakama Nation Fisheries Program.

Persons Signed In To Testify But Not Testifying: None.