

SENATE BILL REPORT

SB 5155

As Reported by Senate Committee On:
Local Government, January 30, 2025

Title: An act relating to extending a program to streamline the environmental permitting process for salmon recovery projects.

Brief Description: Extending a program to streamline the environmental permitting process for salmon recovery projects.

Sponsors: Senators Salomon, Shewmake, Chapman, Hasegawa, Lias, Nobles and Wellman.

Brief History:

Committee Activity: Local Government: 1/23/25, 1/30/25 [DPS-WM, DNP, w/oRec].

Brief Summary of First Substitute Bill

- Renames the Habitat Recovery Pilot Program to be the Habitat Restoration Permit Pathway Program (HRPPP) and removes the Habitat Recovery Pilot Program's expiration date of June 30, 2025.
- Adds projects under Centennial Clean Water Program grants and the Washington Wildlife and Recreation Program to the list of projects under the HRPPP.
- Requires a project applicant to provide a description of the proposed project and the project's area of potential effect to the Department of Archeology and Historic Preservation.

SENATE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: That Substitute Senate Bill No. 5155 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Salomon, Chair; Lovelett, Vice Chair; Bateman.

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.

Minority Report: Do not pass.

Signed by Senator Torres, Ranking Member.

Minority Report: That it be referred without recommendation.

Signed by Senator Goehner.

Staff: Karen Epps (786-7424)

Background: A person must obtain a Hydraulic Project Approval (HPA) prior to commencing any construction project that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state. The Washington Department of Fish and Wildlife (WDFW) issues HPAs to ensure the proper protection of fish life.

In 2021, the Legislature established a Habitat Recovery Pilot Program (HRPP) to promote and implement habitat restoration projects determined to contribute to the recovery of watersheds throughout the state. The HRPP expires in 2025. To be included in HRPP, an environmental restoration project must directly benefit freshwater, estuarine, or marine fish, or the habitat they rely on. The project must be included on a list of projects reviewed, approved, or funded by one of a number of specified entities, including the Bonneville Power Administration Restoration Program; the Brian Abbott Fish Passage Barrier Removal Board; and the Salmon Recovery Funding Board.

A project applicant or funding agency must review the proposed project with the Department of Archaeology and Historic Preservation (DAHP) and complete any required site surveys before the project applicant files an application for HPA. A project applicant must document consistency in the application with applicable cultural resource protection requirements. A project applicant must provide a copy of its application to DAHP, and to affected federally recognized tribes, no fewer than 60 days before the application may be filed with WDFW. For those projects that require lease or other land use authorization from the Department of Natural Resources (DNR), the project applicant must include a signed Joint Aquatic Resources Permit Application (JARPA), attachment E and provide a copy of the completed application to DNR no fewer than 30 days before the application may be filed with WDFW. DNR must make a final decision on application for projects within 30 days of the issuance of an HRPP permit.

WDFW may not review a project under the HRPP if a cultural resource site is identified at the project site or if an affected federally recognized tribe withholds its consent that the project should be expedited. Such consent may be withheld upon a determination that the project may adversely impact cultural resources. Notice of such a determination must be provided to the WDFW by the affected federally recognized tribe in a timely manner.

Summary of Bill (First Substitute): The HRPP is renamed to be the Habitat Restoration Permit Pathway Program (HRPPP) and the expiration date of June 30, 2025, is removed. The HRPPP does not replace or supplant existing permit requirements, but may

be used as an optional permit pathway.

The list of projects that may be included in the HRPPP is expanded to include projects under:

- the Clean Water Act and Centennial Clean Water Program grants installing instream and riparian nonpoint source projects;
- the Washington Wildlife and Recreation Program;
- a regional recovery organization or salmon regional recovery organization;
- Washington Department of Transportation's environmental retrofit program; and
- the State Conservation Commission's riparian grants or natural resource investments.

A project applicant must provide a description of the proposed project and the project's area of potential effect, including vertical and horizontal limits, and any additional ground disturbance activities, rather than their application, to DAHP and to affected federally recognized tribes. A project applicant must provide their application to an affected federally recognized tribe at the tribe's request.

For those projects that require land use authorization from DNR, the timeline requirement related to providing a copy of the completed application to DNR by no fewer than 30 days before the application may be filed with WDFW is removed. The project applicant may submit its completed HRPPP permit to WDFW either:

- 30 days after providing a copy of a completed application to DNR; or
- upon receipt of a signed JARPA attachment E from DNR, whichever comes first.

If the project applicant submits its application 30 days after filing the signed JARPA attachment E, with DNR, DNR must make a final decision on applications for projects within 30 days of issuance of the HRPPP permit. An applicant may submit a paper or email JARPA submission to apply for approval of an HRPPP.

EFFECT OF CHANGES MADE BY LOCAL GOVERNMENT COMMITTEE (First Substitute):

- Establishes that the habitat restoration permit pathway program does not replace or supplant current permit requirements but rather may be used as an optional permit pathway.
- Adds projects under a regional recovery organization or regional salmon recovery organization, Department of Transportation's environmental retrofit program, and the Conservation Commission's riparian grants or natural resource investments to the list of projects that may be included in Habitat Restoration Permit Pathway Program.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This bill renames the HRPP and makes the program permanent. The HRPP program has demonstrated time savings and cost savings for applicants, together with collaboration with state and local partners and tribal co-managers. The program results in restoration project permits being approved more quickly which benefits salmon and other fish life. HRPP has established a streamlined process and a single point of contact that enables efficient communication and reduces redundancy, while maintaining rigorous standards. This bill builds on the success of HRPP to allow organizations to focus resources on critical restoration work. This program has proven to balance public safety, climate resilience, and salmon recovery, while delivering efficiency benefits, including time, capacity, and funding. Permit streamlining can save thousands of dollars in staff time and fees and allows these beneficial projects to be constructed on a faster schedule. HRPP does not exempt projects from local floodplain development permits and a project is not eligible for the program if a local government determines that it does not meet floodplain reduction requirements or may pose a risk to public health or safety. This bill considers public dollars, increases the pace of salmon recovery, and does not diminish the needed engineering review for habitat restoration projects. HRPP adds efficiency without bypassing any required consultation or review. HRPP reduces duplicative review by different agencies and is exactly the sort of streamlining that is needed. The program works, is effective, and should be carried forward.

CON: Skagit County should be carved out and excluded from the bill. Expediency should not be the guiding principle regarding habitat restoration projects. Projects that are intended to have long-term outcomes require careful consideration and local elected officials are integral to these projects. This bill adds another layer of infrastructure, another layer of staffing requirements, and another layer of funding requirements on top of existing permits.

OTHER: This bill will undermine Skagit local and tribal governments' ongoing effort to create a strategic coordinated approach for major Skagit projects. The bill exempts projects approved by the Salmon Recovery Funding Board from local permitting, but local permitting is not slowing down big projects in the Skagit. WRIAs 3 and 4 should be excepted from this bill. Skagit county is mapping out a strategic approach to habitat projects on the Skagit delta and having local governments and tribal governments in a long-term partnership is the only realistic plan for success in the Skagit. This bill would allow non-governmental organizations to make plans for salmon recovery in the Skagit without communicating with the local government in advance and will undermine the strategic and coordinated approach that Skagit county is working on with tribal governments. Being all-inclusive to all governments at the onset is essential to achieving true collaboration and success in salmon recovery. Local elected officials should decide which projects are best and there needs to be local permitting so that property owner surrounding these projects can

weigh in and request appropriate permit conditions to ensure there will not be excessive offsite impacts. There have been nonprofit-led projects that have created offsite problems for surrounding landowners.

Persons Testifying: PRO: Senator Jesse Salomon, Prime Sponsor; Matt Curtis, WDFW; Morgan Morris, Lower Columbia Fish Enhancement Group; Jonathan Grudin; Kevin Long, North Olympic Salmon Coalition; Kas Guillozet, Bonneville Environmental Foundation; Devin Smith, Swinomish Indian Tribal Community and Sauk-Suiattle Indian Tribe; Aaron Rosenblum, Cascade Fisheries; Sean Eagan, The Port of Tacoma.

CON: Ellen Bynum, Friends of Skagit County.

OTHER: Jenna Friebe, Skagit Drainage and Irrigation Districts Consortium LLC; Will Honea, Skagit County; Peter Browning, Skagit County; Scott Schuyler, Natural Resources Policy Representative Upper Skagit Indian Tribe; Dave Hallock, Skagit Upriver Neighbors; Lora Claus, Skagitonians to Preserve Farmland; Samantha Weinstein, Department of Ecology.

Persons Signed In To Testify But Not Testifying:

OTHER: Don Gourlie, Puget Sound Partnership.