

HOUSE BILL REPORT

ESHB 1864

As Passed Legislature

Title: An act relating to removal of sand and gravel.

Brief Description: Changing requirements for removal of sand and gravel from aquatic lands.

Sponsor(s): By House Committee on Natural Resources & Parks (originally sponsored by Representatives Kremen, Haugen, Wilson, Roland, Braddock, Spanel, Rayburn, Rasmussen, Leonard, Bowman, R. Johnson, P. Johnson and Sheldon).

Brief History:

Reported by House Committee on:

Natural Resources & Parks, March 4, 1991, DPS;

Appropriations, March 8, 1991, DPS(NRP)-A;

Passed House, March 20, 1991, 98-0;

Passed Legislature, 98-0.

**HOUSE COMMITTEE ON
NATURAL RESOURCES & PARKS**

Majority Report: That Substitute House Bill No. 1864 be substituted therefor, and the substitute bill do pass.

Signed by 10 members: Representatives Belcher, Chair; Scott, Vice Chair; Beck, Ranking Minority Member; Brumsickle, Assistant Ranking Minority Member; Dellwo; Fraser; Hargrove; Morton; Sheldon; and Wynne.

Staff: Randy Acker (786-7129).

**HOUSE COMMITTEE ON
APPROPRIATIONS**

Majority Report: The substitute bill by Committee on Natural Resources & Parks be substituted therefor and the substitute bill as amended by Committee on Appropriations do pass. Signed by 29 members: Representatives Locke, Chair; Inslee, Vice Chair; Spanel, Vice Chair; Silver, Ranking Minority Member; Morton, Assistant Ranking Minority Member; Appewick; Belcher; Bowman; Braddock; Brekke; Dorn; Ebersole; Ferguson; Fuhrman; Hine; Lisk; May; McLean; Mielke; Nealey; Peery; Pruitt; Rust; H. Sommers; Sprenkle; Valle; Vance; Wang; and Wineberry.

Staff: Nancy Stevenson (786-7137).

Background: Sale/Use of Materials Situated on Aquatic Lands: The Department of Natural Resources is authorized to sell stone, rock, gravel, or sand situated on aquatic lands to local governments for use in the construction, maintenance, or repair of roads located within the jurisdiction of the local government. The department is required to sell such materials at no less than the fair market value.

The department may authorize the use of rock, gravel, sand, or other materials situated on aquatic lands free of charge when such materials are: (1) removed for purposes of channel or harbor improvement, or flood control; and (2) used for public purposes.

Due to an apparent ambiguity in current law, there is some question as to whether the department is required to charge for materials removed from aquatic lands for purposes of channel or harbor improvement, or flood control when such materials are used subsequently for construction, maintenance, or repair of roads.

Sand and Gravel-Permit Process: Removal of sand and gravel from aquatic lands requires both a Shorelines Development Permit and a Hydraulic Project Approval (HPA). The HPA is designed to protect fish habitat, and in so doing, it can restrict the amount of sand and gravel removed. In many cases, the small quantity of material available under permit conditions does not justify the cost of gaining access and removing the materials. As a result, firms are not actively pursuing authority to remove sand and gravel from aquatic lands.

Removal of Gravel for Flood Control: Recent flooding in Washington has given rise to speculation relating to the effectiveness of gravel removal on minimizing flood risks. However, there is no reliable data which would indicate the volume of material which would need to be removed annually from any river in the State in order to have a noticeable impact on flood control.

Summary of Bill: The requirement that materials removed from aquatic lands be sold at fair market value when sold to local governments for use in the construction, maintenance, or repair of roads is deleted. Instead, the department is prohibited from charging for such materials used by local governments for public purposes, including construction and maintenance or roads, dikes, and levees.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: (Natural Resources & Parks): The legislation would make it easier to provide gravel to local jurisdictions. The study will allow the department to look at the whole river. A comprehensive planning approach for removal of sand and gravel will be helpful. The legislation will help to control flooding along the Nooksack river.

(Appropriations): None.

Testimony Against: (Natural Resources & Parks): None.

(Appropriations): None.

Witnesses: (Natural Resources & Parks): Stan Biles, Department of Natural Resources (in favor); John Connolly, landowner (in favor); and Judy Sandy, Save Our Property (in favor).

(Appropriations): None.