

HOUSE BILL REPORT

HB 1443

As Reported By House Committee On:
Agriculture & Ecology

Title: An act relating to flood damage reduction.

Brief Description: Permitting expedited flood damage repairs during flooding emergencies.

Sponsors: Representatives Mastin, Grant, Johnson, Quall, Koster, Linville, Wensman, Hatfield, Mielke and Smith.

Brief History:

Committee Activity:

Agriculture & Ecology: 2/5/97, 2/20/97 [DPS].

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Chandler, Chairman; Parlette, Vice Chairman; Linville, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Cooper; Delvin; Koster; Mastin; Regala and Sump.

Staff: Rick Anderson (786-7114).

Background: Hydraulic Project Approval (HPA) Permits. HPA permits are administered by the Department of Fish and Wildlife. HPA permits are required for work that will use, change, or obstruct the flow or bed of fresh or salt waters. Protection of fish life is the only basis on which a permit application can be conditioned or denied.

In its rules regulating the issuance of HPA permits, the department recognizes three types of permits. Emergency permits are issued when the department finds that there is an immediate threat to life, public or private property, or environmental degradation that may arise from weather, flood, or fire-related conditions. During emergency conditions, the department is required to grant immediate oral approval to conduct certain work within the state's waters. The oral approval can contain conditions to protect fish life and these conditions must be put in writing within 30 days of the emergency. The department's HPA rule also allows written expedited permits to be issued in the event of an imminent threat. The department's rules do not

define the term imminent threat.— This may be issued only after the appropriate environmental analysis under the state's Environmental Policy Act (SEPA). The department normally issues expedited permits within 10 days of a completed application.

Neither state law nor the department's rules for HPA permits specify who designates emergencies for the purpose of issuing immediate oral approval of HPA permit requests. In practice, the department designates emergencies.

Summary of Substitute Bill: The three types of HPA permits provided by the department are established in statute. The standard and expedited permits are written permits. The department must issue expedited permits within 15 days of receiving a complete application. Expedited permits are issued when there is an imminent threat of damage from a flood. Imminent threat is defined as a flood-related threat that is likely to occur within 90 days. The department may not require an environmental analysis under the SEPA as a condition of issuing an expedited permit. A local government's ability to require a SEPA analysis for this permit is unaffected. Expedited permits are valid for up to 90 days. A definition of emergency is established for the purpose of defining when immediate oral approval must be granted for an emergency permit. A county legislative authority or the department can declare an emergency or an imminent threat. A county legislative authority is required to notify the department when declaring an emergency or imminent threat.

At the request of a county, the department must develop 5-year maintenance agreements. Maintenance agreements will allow specified work in the state's waters without the need to obtain project specific permits. These 5-year agreements must be consistent with the local comprehensive flood plan. The department may specify the conditions and times under which project work may occur.

Substitute Bill Compared to Original Bill: The substitute bill establishes the three types of HPA permits in statute, defines "eminent" and "emergency", and allows counties to require the department to issue emergency and expedited permits. The original bill provided a similar authority by defining an emergency— to include both immediate and imminent threats. The substitute bill deletes a provision in the original bill to increase funding for floods.

Appropriation: None.

Fiscal Note: Requested on February 6, 1997.

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

Testimony For: The department should issue 5-year HPA permits for maintenance projects for those counties that have completed a local flood plan. State flood funding should be increased; current state flood funding is inadequate. Columbia County incurred \$20 million in flood damages during the winter of 1996; the total county budget is \$5 million per year. This level of flood damage occurred because the Department of Fish and Wildlife did not allow the appropriate level of gravel removal to occur.

Testimony Against: The department already issues 5-year HPA permits for maintenance projects. Imminent– should be defined. Increasing the level of state flood funding is a good idea.

Testified: Eric Berger, County Road Administration Board (pro); Jerry Hendricks, Pierce County Public Works (pro); Bill Garvin, Washington State Farm Bureau (pro); Don Jackson, Washington Association of Counties (pro); and Ed Manary, Department of Fish and Wildlife (con).