

# HOUSE BILL REPORT

## HB 2719

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### As Reported By House Committee On:

Natural Resources

**Title:** An act relating to providing immunity for placement of large woody debris into streams.

**Brief Description:** Providing immunity for placement of large woody debris into streams.

**Sponsors:** Representatives Ericksen, Linville, Sump, Koster, Regala, Lambert, Morris, Eickmeyer, Anderson, Fortunato, Haigh, G. Chandler, Kagi and Rockefeller.

### Brief History:

#### Committee Activity:

Natural Resources: 2/2/00, 2/4/00 [DPS].

### Brief Summary of Substitute Bill

- Immunity from liability is provided to landowners, volunteers, and project sponsors who place large woody debris into a stream in accordance with a hydraulic permit and generally accepted guidelines.

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## HOUSE COMMITTEE ON NATURAL RESOURCES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Sump, Republican Vice Chair; G. Chandler; Clements; Doumit; Eickmeyer; Pennington; Rockefeller and Stensen.

**Staff:** Bill Lynch (786-7092).

### Background:

Riparian areas benefit when trees are left unharvested. While they are standing, these trees provide shading for the stream and nesting places for birds and other wildlife. When the trees fall into the stream, they often provide large woody debris to help fish evade predators and to feed. Recognizing this benefit to the environment, the Legislature

provided immunity to landowners who leave these trees standing along streams from any injuries or damages that may result from the trees being left.

The placement of large woody debris into streams is a project frequently undertaken by landowners, volunteers, and project sponsors to assist in salmon recovery. Landowners are also sometimes required to place large woody debris as a condition of a hydraulic permit approval or because of forest practices rules. There is no similar immunity provided in statute for people who are involved in these projects from injuries or damages that may result from the placement of the large woody debris.

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**Summary of Substitute Bill:**

Any landowner, or volunteer or project sponsor working on a project from a habitat project list, who is involved in the design or placement of large woody debris into a stream to enhance fish recovery, is not liable for any injuries or damages resulting from ordinary negligence associated with these actions, if the placement of the large woody debris is in accordance with the terms of a hydraulic permit and is consistent with generally accepted design guidelines. The immunity provided under this legislation does not extend to the issuer of a hydraulic permit. The issuer of a hydraulic permit retains any immunity which exists currently in statute or the common law.

**Substitute Bill Compared to Original Bill:** The original bill did not address project sponsors, and did not link the immunity with projects conducted pursuant to the terms of a hydraulic permit and generally accepted design guidelines. The substitute bill excludes the issuer of a hydraulic permit from immunity provided by the legislation.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** (Original bill) Landowners who are required by the government to put large woody debris into a stream should not be subject to liability. Volunteers may be reluctant to participate in salmon recovery projects like these if they can be sued.

**Testimony Against:** None.

(With concerns) (Original bill) The bill should be limited to projects where a hydraulic permit is required. An improperly installed project can damage pumping stations, barns,

bridges, and other structures. Liability should attach according to whether proper guidelines and engineering were followed.

**Testified:** (In support) Representative Doug Ericksen, prime sponsor; and Willy O'Neil, Associated General Contractors.

(With concerns) Dick Ducharme, Yakima Growers and Shippers; Chris Cheney, Washington Dairy Federation; Tim Smith, Department of Fish and Wildlife; and Nels Hanson, Washington Farm Forestry Association.