
Natural Resources Committee

HB 2757

Brief Description: Concerning hydraulic project approval.

Sponsors: Representatives Rockefeller, Ericksen, Hunt, Doumit, Linville and Pearson.

Brief Summary of Bill

- Authorizes the Department of Fish and Wildlife (DFW) to adopt rules for issuing pamphlet hydraulic project approvals for project or work activity that would otherwise require an individual permit approval.
- Limits these pamphlet approvals to low-risk approval requests for which there are predictable mitigation measures.
- Directs the DFW to report to the appropriate legislative committees by January 1, 2004, and by January 1, 2006 on the implementation of the pamphlet approval program.
- Authorizes the DFW to charge a fee for processing and issuing decisions on hydraulic project approval applications. The fee must be based upon the scale and complexity of the project.

Hearing Date: 2/5/02

Staff: Bill Lynch (786-7092).

Background:

A person is required to obtain a hydraulic permit for any project or work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state before beginning the construction work. These include certain projects or activities related to irrigation or stock watering purposes or streambank stabilization, and projects and activities related to marine beach front protective bulkheads or rock walls. The permits are issued to ensure the proper protection of fish life and are issued by the Department of Fish and Wildlife (DFW).

The DFW is statutorily authorized to issue programmatic hydraulic project approvals for small scale mining and prospecting, and for activities or projects conducted solely for the

removal or control of certain aquatic weeds. The programmatic approval is in lieu of an applicant obtaining an individual hydraulic permit. Under the programmatic approval process, the department publishes a pamphlet that states the rules for that activity. As long as the person follows the rules provided in the pamphlet, that person is considered to be in compliance with the law. There is no general authority for the DFW to issue pamphlet hydraulic project approvals for other types of work or activities.

The DFW processes in excess of 6,000 hydraulic project approvals a year. The scope of the review of these projects varies based on the proposed project. The DFW is not authorized to charge fees for processing hydraulic project approvals.

Summary of Bill:

The Department of Fish and Wildlife (DFW) is authorized to adopt rules for issuing pamphlet hydraulic project approvals for project or work activity that would otherwise require an individual permit approval. In adopting the rules, the DFW must ensure that these pamphlet approvals are only available for low-risk approval requests for which there are predictable mitigation measures. Complex projects, or projects that generally require site-specific mitigation measures are not eligible for pamphlet approval.

The rules must: describe the time, manner, locations, methods, or other conditions under which the activity is approved; describe the activity that is exempt from the individual hydraulic project approval; be published in pamphlets; and contain sufficient details so that they are enforceable. The rules must also include a description of the process that the DFW will use to track, monitor, and evaluate projects approved by this pamphlet approval process. The application process for pamphlet approval must identify the specific location of the project. The DFW is directed to develop a process for conducting random compliance inspections to ensure that the program is working effectively.

The rules may require the person to have the pamphlet in his or her possession while conducting the activity. The DFW may slightly vary the conditions of a particular pamphlet approval by region in order to ensure that activities will not result in significant cumulative impacts to fish within that region. Pamphlets must be provided either for free, or for a fee that reasonably reflects the cost of producing and distributing the pamphlets.

The Fish and Wildlife Commission must provide an opportunity for public review and comment before approving a type of activity or work for pamphlet approval. By September 1, 2002, the DFW must establish an advisory committee composed of representatives of local governments, environmental groups, business groups, and other stakeholders to assist in the development and implementation of this program. The advisory committee is directed to also make recommendations on ways to create administrative efficiencies while maintaining the effectiveness of the program. The recommendations may address training, workload allocation, electronic permitting, exploring the need for new resources for the program, and the levels of any fees that the DFW is considering establishing.

The DFW must report to the appropriate legislative committees by January 1, 2004, and by January 1, 2006 on the implementation of the pamphlet approvals. The report must include the number and type of alternative permit approvals granted, information regarding how

resources have been shifted away from processing activities now covered by the pamphlet approvals and into processing more complex projects, and recommendations developed by the advisory committee.

The DFW may charge a fee for processing and issuing decisions on hydraulic project approval applications. The fee must be based upon the scale and complexity of the project. The fees are exempt from the limitation on increases on fees that exceed the annual fiscal growth factor without prior legislative approval.

By July 31, 2003, the Fish and Wildlife Commission must adopt rules that set forth the fee criteria and amount for various categories of approvals. The rules must be developed in collaboration with interested and affected parties. The criteria and amounts must be based upon a workload analysis developed by the DFW. The fee criteria may include the capital cost of the project. Habitat enhancement projects are exempt from the fees.

Revenues generated by the fees charged for processing and issuing decisions on hydraulic permits are deposited into the state wildlife fund and may only be used for processing and issuing decisions on hydraulic permits.

Appropriation: None.

Fiscal Note: Requested on January 31, 2002.

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