

HOUSE BILL REPORT

HB 2757

As Reported by House Committee On:
Natural Resources

Title: An act relating to administration of hydraulic project approval.

Brief Description: Concerning hydraulic project approval.

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

Brief History:

Committee Activity:

Natural Resources: 2/5/02, 2/8/02 [DPS].

Brief Summary of Substitute Bill

- Directs the Department of Fish and Wildlife to establish an advisory committee to review the hydraulic approval program. The advisory committee's responsibilities must include several elements, including an examination of the statutes and regulations to determine whether there are clear goals for the program, recommendations regarding the development of outcome-based performance measures for the program, and recommendations concerning the level of any fees, and the methodology of setting any fees, that the department is considering establishing.

HOUSE COMMITTEE ON NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Doumit, Chair; Rockefeller, Vice Chair; Sump, Ranking Minority Member; Buck, Eickmeyer, Ericksen, Jackley, McDermott, Orcutt, Pearson and Upthegrove.

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 Substitute Bill:

The DFW is required to establish an advisory committee no later than September 1, 2002 to review the hydraulic approval program. The advisory committee must be composed of no more than 16 members and consist of a balanced representation of state and local governments, tribes, business and industry interests, and environmental interests.

The advisory committee must focus on ways to improve outcomes for the program so that permit applicants receive improved service and fish obtain enhanced protection. The advisory committee must review the statutes and regulations to determine if there are clear goals for the program, whether benefits are being obtained in an economical manner, whether the law is consistently applied, the effectiveness of permit conditions and mitigation required for project approvals, and the adequacy of monitoring to ensure that the protection of fish life is being achieved.

The advisory committee is also asked to assist in developing outcome-based performance measures for the program, and to help identify other efficiencies. The advisory committee is required to address the development and implementation of the alternative permit program. Finally, it must also make recommendations regarding the levels of any fees and the methodology of setting any fees that the department is considering establishing. Any recommendations concerning fees must be consistent with the efforts to integrate forest practices and hydraulic permitting processes.

The advisory committee must submit a report containing its recommendations and findings to the appropriate legislative committees by December 31, 2003.

Substitute Bill Compared to Original Bill:

The original bill is stricken and replaced with an advisory committee that will conduct a review of the hydraulics permit program.

Appropriation: None.

Fiscal Note: Requested on January 31, 2002.

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

Testimony For (original bill): Fees can benefit both sides because the hydraulic permit program is critically underfunded. The pamphlet approvals and the creation of an advisory committee are good improvements to the law. Pamphlets are a good way to streamline the process. Users of the system should pay fees for processing permits. The streamlining process is a good step forward, and the Legislature recently enacted streamlining for transportation projects that should work. There is a large budget shortfall, and fees for these permits will help address this shortfall.

(With concerns) Pamphlets don't provide the same level of protection as existing permits. The proposed interim fee is set too low.

Testimony Against (original bill): Project applicants spend large sums of monies doing the upgrades, and shouldn't have to pay fees for the permits. Adding fees will greatly increase costs. Hydraulic approvals was a major part of the forests and fish agreement, and this separate fee authority is a disincentive to integrate forest practices and hydraulic permitting. The fee schedule should be submitted to the Legislature for approval. Adoption of fees through an emergency process doesn't allow for proper input. Fees should not be open-ended. Public entities are the project applicants for many of the more complex projects. These projects benefit the government and not the landowner, so the project applicants shouldn't have to pay fees. Hydraulic permits approvals should use the reviews already conducted by the Army Corps of Engineers.

Testified: (In support) Bruce Wishart, People for Puget Sound; Terry Hull, Puget Sound Water Quality Action Team; and Greg Hueckel, Department of Fish and Wildlife.

(In support with concerns) Jim Cahill, Office of Financial Management; and Loren Stern, Department of Fish and Wildlife.

(Opposed) Tim Boyd and Court Stanley, Port Blakely Tree Farms; Bill Garvin, Washington Forest Protection Association; Mary Burke, Washington Cattlemen's Association; Kristen Sawin, Association of Washington Businesses; Eric Johnson,

Washington Public Ports Association; Nels Hanson, Washington Farm Forestry Association; and Willy O'Neil, Associated General Contractors.