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**Judiciary Committee**

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**HB 1378**

**Title:** An act relating to placement of large woody debris.

**Brief Description:** Placing large woody debris into rivers and streams.

**Sponsors:** Representative Ericksen.

**Brief Summary of Bill**

- Provides immunity from negligence to landowners, volunteers, and project sponsors who place large woody debris into a stream or river in accordance with a hydraulic permit and generally accepted guidelines.
- Requires the Department of Fish and Wildlife to invite comment from various parties on the placement of large woody debris when the placement requires a hydraulic permit approval.

**Hearing Date:** 2/7/03

**Staff:** Trudes Tango Hutcheson (786-7384).

**Background:**

When any person or agency wants to construct any form of hydraulic project or perform other work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state, the person or agency must first obtain a permit called a hydraulic project approval (HPA). Projects that will divert water for agricultural irrigation or stock watering purposes, or projects associated with streambank stabilization to protect farm and agricultural land, must also be in accordance with an HPA. The Department of Fish and Wildlife (Department) issues HPAs.

As a condition of an HPA, the Department may require the person or agency to take certain action to mitigate the impact the project may have on fish life. One such condition may be the placement of woody material in the water to benefit reproducing fish stocks.

Whenever placement of woody debris is required as a condition of an HPA, the Department, upon request, shall invite comment from the local governmental authority, affected tribes,

affected federal and state agencies, and the project applicant.

The rules governing the hydraulic project approval process define "large woody material" as trees or tree parts larger than four inches in diameter and longer than six feet and rootwads, wholly or partially waterward of the ordinary high water line.

Current forest practice statutes and Department regulations sometimes require forest landowners to leave trees standing along land that is on or near waterways to benefit fish and wildlife. The landowner, the Department, and the state are not liable for damages or injury resulting from these trees being blown down or falling. The immunity provided includes immunity from damages or injury to public improvements, private property, and persons, and damages or injuries resulting from wildfire, erosion, and flooding.

**Summary of Bill:**

The Legislature finds, among other things, that placement of large woody debris into rivers and streams helps in salmon recovery. The Legislature intends to provide immunity from liability and increase participation of downstream property owners in decisions pertaining to placement of large woody debris.

Any landowner, or any project sponsor or volunteer working from a habitat project list, who is involved in the design or placement of large woody debris into a watercourse to enhance salmon or other fish recovery shall not be liable for injury 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 applies, but is not limited to, personal injury, property damage, flooding, erosion, damage to public improvements, and other injuries or damages resulting from the placement of large woody debris.

Changes are made to the requirement that the Department invite comments whenever placement of woody debris is required as a condition of another HPA-approved project. Instead, the Department must, upon request, invite comment whenever the placement of large woody debris requires an HPA. Those who may comment include downstream property owners who own property within one mile of where the large woody debris is to be placed.

"Watercourse" has the same meaning as it existed as of January 1, 2001, under the rules governing the hydraulic project approval process. Large woody debris is defined the same as the current definition for "large woody material."

**Appropriation:** None.

**Fiscal Note:** Not Requested.

**Effective Date:** The bill takes effect ninety days after adjournment of session in which bill is passed.