
**Agriculture & Natural
Resources Committee**

HB 1418

Brief Description: Exempting drainage infrastructure from certain environmental requirements.

Sponsors: Representatives Quall, Schoesler, Blake, Sump, Morris, Grant, Hatfield, Sehlin, Bailey and Linville.

Brief Summary of Bill

- Exempts drainage infrastructure installed before the effective date of the bill from fishway and hydraulic project approval requirements

Hearing Date: 2/5/03

Staff: Kenneth Hirst (786-7105).

Background:

The hydraulics code requires any obstruction across or in a stream to be provided with a durable and effective fishway approved by the Director of the Department of Fish and Wildlife (DFW). (RCW 77.55.060.) A failure to provide, maintain, or operate such a fishway is a gross misdemeanor. (RCW 77.55.320.) After certain notice, the Director may remove the obstruction at the owner's expense or destroy it as a public nuisance. (RCW 77.55.060.)

If a person or agency wishes 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 must secure the approval of the DFW regarding the adequacy of the means proposed for the protection of fish life. This approval is generally referred to as a hydraulic project approval or HPA. (RCW 77.55.100.) The Department may levy a civil penalty of up to \$100/day for violations of this requirement. (RCW 77.55.140.)

Skagit County Dike District No. 22 applied for an HPA to replace an existing four foot pipe and tide gate on Dry Slough. The HPA approved by the DFW on September 3, 2002,

required that the replacement culvert be fitted with a self-regulating tide gate (SRT). The district filed an appeal of the HPA conditions with the Hydraulic Appeals Board on September 27, 2002. The Swinomish Indian Tribal Community, Sauk-Suiattle Indian Tribe, and Upper Skagit Indian Tribe filed appeals with the DFW on October 1, 2002, regarding its issuance of the HPA.

The Skagit County Public Works Department applied for an HPA to alter an SRT that had been installed on Edison Slough in 2000. The county proposed to disable the regulating float system and operate the gate as a standard tide gate for 24 months while it monitored water and salinity levels. On October 7, 2002, the DFW denied the request for the HPA. In a letter dated December 6, 2002, but stamped as being received by the Mill Creek Office of the DFW on January 10, 2003, the Public Works Department requested an informal review of the denial.

Summary of Bill:

The fishway and HPA requirements of the hydraulics code do not apply to drainage infrastructure or to its repair, improvement, or replacement. Such infrastructure includes dikes, drains, tide gates, flood gates, pumps, drainage tiles, and drainage pipe that protect land used for agricultural uses. To qualify for the exemption, the infrastructure must have been originally installed on or before the effective date of this bill.

Appropriation: None.

Fiscal Note: Not Requested.

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