

SENATE BILL REPORT

SB 6574

As of February 2, 2004

Title: An act relating to providing a definition of state waters for RCW 77.55.100.

Brief Description: Providing a definition of state waters.

Sponsors: Senators Honeyford, Sheahan and Parlette.

Brief History:

Committee Activity: Agriculture: 2/5/04.

SENATE COMMITTEE ON AGRICULTURE

Staff: Evan Sheffels (786-7486)

Background: A person must obtain a hydraulic project approval (HPA) for any project 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 construction. HPA permits are issued by the Department of Fish and Wildlife (WDFW) to ensure the proper protection of fish life.

Most HPA decisions may be appealed to the director of the Department of Fish and Wildlife (WDFW) under the provisions of the Administrative Procedure Act. The appeal may be heard by the director or an administrative law judge, but final decisions on the appeal are made by the director. Certain projects related to agricultural irrigation or off-site mitigation are heard by the Hydraulic Appeals Board, consisting of the directors of Fish and Wildlife, Ecology, and Agriculture.

The hydraulic code defines the bed of state waters as the land below the ordinary high water lines of state waters, excluding irrigation ditches, canals, storm water run-off devices, or other artificial watercourses unless they exist in a natural watercourse that has been altered by man. Concerns have been raised regarding the proper interpretation and differentiation of an "artificial watercourse" from an artificial watercourse existing in a "natural watercourse that has been altered by man." This has resulted in confusion as to the types of flows subject to HPA requirements and WDFW jurisdiction.

Summary of Bill: Irrigation drains and wasteways are expressly added to the list of artificial waterways exempt from WDFW hydraulic code jurisdiction over the beds of state waters.

The reference making the bed of state waters definition applicable to the hydraulic approval statute for agricultural irrigation diversions or off-site mitigation projects is deleted.

Language making hydraulic code authority applicable to an artificial watercourse existing in a natural watercourse altered by man is deleted. Language is added to define artificial watercourse as including any topographic feature that would be dry without the influence of irrigated agriculture return flows or the occurrence of local storm events or a heavy snow melt.

Appropriation: None.

Fiscal Note: Not requested.

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