

1418-S2

Sponsor(s): House Committee on Appropriations (originally sponsored by Representatives Quall, Schoesler, Blake, Sump, Morris, Grant, Hatfield, Sehlin, Bailey and Linville)

Brief Description: Exempting drainage infrastructure from certain environmental requirements. Revised for 1st Substitute: Regarding construction projects in state waters. Revised for 2nd Substitute: Regarding construction projects in state waters. (REVISED FOR PASSED LEGISLATURE: Exempting drainage infrastructure from certain environmental requirements.)

HB 1418-S2.E - DIGEST

(DIGEST AS ENACTED)

Provides that the department shall not require a fishway on a tide gate, flood gate, or other associated man-made agricultural drainage facilities as a condition of a hydraulic project approval if such fishway was not originally installed as part of an agricultural drainage system existing on or before the effective date of this act.

Declares that any condition requiring a self-regulating tide gate to achieve fish passage in an existing hydraulic project approval under this act may not be enforced.

Provides that, if a limiting factors analysis has been conducted under chapter 77.85 RCW for a specific geographic area and that analysis shows insufficient intertidal salmon habitat, the department of fish and wildlife and the county legislative authorities of the affected counties may jointly initiate a salmon intertidal habitat restoration planning process to develop a plan that addresses the intertidal habitat goals contained in the limiting factors analysis. The fish and wildlife commission and the county legislative authorities of the geographic area shall jointly appoint a task force.

Specifies the duties of the task force.

Provides that, in consultation with the task force, the conservation commission may contract with universities, private consultants, nonprofit groups, or other entities to assist it in developing a plan incorporating the designated elements.

VETO MESSAGE ON HB 1418-S2

May 20, 2003

To the Honorable Speaker and Members,
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 3, Engrossed Second Substitute House Bill No. 1418 entitled:

"AN ACT Relating to drainage infrastructure;"

This bill exempts tide gates and flood gates statewide from fish passage requirements, creates a task force to develop a plan for intertidal habitat goals, and provides for a process to inventory and assess tide gates and their role in salmon recovery.

Section 3 of the bill requires the removal of the self-regulating function of any self-regulating tide gate installed because of a condition imposed by the Department of Fish and Wildlife pursuant to RCW 77.55.100, the hydraulics code, or as a requirement of fish passage pursuant to RCW 77.55.060. This section applies to any fish passage already installed on a tide gate.

I have vetoed section 3 because it applies where fish passage is already in place. It is counterproductive to our salmon recovery strategies to eliminate existing fish passage. The better approach is to use the task force process created in the bill, to analyze the role of tide gates, and habitat behind them, for salmon recovery.

I have concerns regarding the broad scope of the fish passage exemptions provided in sections 1 and 2. However, I have decided not to veto those sections because I believe the task force process in section 4 and the assessment process in section 5 will provide a scientific basis for determining the role of tide gates in particular ecosystems. The results of this study will allow us to address those tide gates that will enhance our ability to recover salmon.

My administration has strongly supported and is committed to continuing our efforts toward salmon recovery. Habitat is critical for salmon recovery for recreational and commercial fisheries. And, salmon are essential for the tribes in our state. Just as farmers rely on the land, tribes rely on the salmon. Unfortunately, we have seen an escalation in the tension between the parties on tide gates. It is my hope that in signing this bill, some of this tension will be eased so that we can begin to work together to resolve this issue.

A key approach in our salmon recovery strategy has been to focus on working with those impacted by our decisions. This was the approach used with Forest and Fish, the plan for the protection of salmon habitat in the forested environment. Forest and Fish addresses the impacts of protection decisions on forestland owners. However, this process also incorporates an aggressive adaptive management program that assesses the progress of our recovery strategies and adjusts them as we learn more.

Now, as we address the interaction between salmon recovery and agriculture, I believe that the same type of approach should be used. Recovery strategies that will necessitate using agricultural land should be based on an assessment and evaluation of the habitat needs, and on opportunities to recover the species with a minimal impact on private lands. Should it be necessary to include private lands, then the landowner should have a clear understanding of the plan for recovery, the role his or her land will play in the plan, and incentives for participation in the plan. This is the approach

taken in sections 4 and 5 of this bill, which I support.

Although this bill is statewide in scope and effect, the focus of discussions in the Legislature have been on the Skagit River estuary. It is my hope that the forum created in this bill will lead to positive dialogue between the parties, and most importantly, will lead to a salmon recovery strategy for the Skagit River estuary. The system of dikes and drainage in the estuary is important for farmers, but there are also opportunities for restoration of lost estuarine habitat.

For these reasons, I have vetoed section 3 of Engrossed Second Substitute House Bill No. 1418.

With the exception of section 3, Engrossed Second Substitute House Bill No. 1418 is approved.

Respectfully submitted,
Gary Locke
Governor