

HOUSE BILL REPORT

HB 2710

As Reported by House Committee On:
Natural Resources, Ecology & Parks

Title: An act relating to clarifying the process for hydraulic permit appeals.

Brief Description: Clarifying the process for hydraulic permit appeals.

Sponsors: Representatives Buck and B. Sullivan.

Brief History:

Committee Activity:

Natural Resources, Ecology & Parks: 1/24/06, 1/27/06 [DP].

Brief Summary of Bill

- Consolidates under the jurisdiction of the Hydraulic Appeals Board all appeals to hydraulic permits issued by the Washington Department of Fish and Wildlife.

HOUSE COMMITTEE ON NATURAL RESOURCES, ECOLOGY & PARKS

Majority Report: Do pass. Signed by 11 members: Representatives B. Sullivan, Chair; Uptegrove, Vice Chair; Buck, Ranking Minority Member; Kretz, Assistant Ranking Minority Member; Blake, Chandler, Dickerson, Eickmeyer, Hunt, Kagi and Orcutt.

Staff: Jeff Olsen (786-7157).

Background:

A person must obtain a hydraulic permit before beginning construction on 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. Hydraulic permits are issued by the Washington Department of Fish and Wildlife (WDFW) to ensure the proper protection of fish life. The bed of state waters is defined in the Hydraulic Code as land below the ordinary high water line of state waters.

Hydraulic permit decisions may be appealed to the Director of the WDFW (Director) under the provisions of the Administrative Procedure Act. The appeal may be heard by the Director or an administrative law judge, but the final decision on the appeal is made by the Director.

Certain projects related to agricultural irrigation, off-site mitigation, marine beach front bulkheads, and fish habitat enhancement projects may be appealed to the Hydraulic Appeals Board (HAB). The HAB is established within the Environmental Hearings Office and consists of three members: the Director of the Department of Ecology or the designee, the

Director of the Department of Agriculture or the designee, and the Director of the WDFW or the designee. The HAB makes findings of fact and prepares a written decision on each case it hears. A decision of the HAB must be agreed to by at least two of its members.

Chapter 371, Laws of 2002 (Engrossed Substitute Senate Bill 6387, Section 307 subsection 23), created the Hydraulic Project Approval Task Force (Task Force). The Task Force was directed to conduct an evaluation of the Hydraulic Project Approval Program and make recommendations to the Legislature by November 30, 2002. The Task Force recommended that all formal hydraulic permit appeals should be the jurisdiction of the HAB.

Summary of Bill:

All hydraulic permit decisions issued by the WDFW, not just permits for certain types of projects related to agricultural irrigation, off-site mitigation, marine beach front bulkheads, and fish habitat enhancement, may be appealed to the HAB.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: The Hydraulics Code was restructured last year, and this change was taken out of that bill to keep it policy neutral. This change would streamline the process.

Testimony Against: None.

Persons Testifying: (In support) Representative Buck, prime sponsor; and Jack Field, Washington Cattlemen's Association.

Persons Signed In To Testify But Not Testifying: None.