
**Agriculture & Natural Resources
Committee**

HB 2251

Brief Description: Concerning fish barrier removals.

Sponsors: Representatives Wilcox, Blake, Orcutt and Clibborn.

Brief Summary of Bill

- Adds two new categories of fish barrier removal projects to the list of projects that are eligible for streamlined permitting under the hydraulic project approval process.
- Reconvenes and makes structural changes to the Fish Passage Barrier Removal Task Force.
- Provides direction as to how fish passage barriers are to be addressed, including the establishment of fish passage barrier removal priorities.

Hearing Date: 1/17/14

Staff: Jason Callahan (786-7117).

Background:

Regulatory streamlining

A person must obtain a hydraulic project approval (HPA) prior to commencing any construction 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 Project Approvals are issued by the Washington Department of Fish and Wildlife (WDFW) to ensure the proper protection of fish life.

To receive an HPA, the applicant must provide certain information to the WDFW. This information includes general plans for the overall project, complete plans and specifications for any construction that is proposed to occur within the mean higher high water line (saltwater) or ordinary high water line (freshwater), and complete plans for the proper protection of fish life.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Certain fish enhancement projects may qualify for streamlined administrative review by the WDFW. These projects are expected to result in beneficial impacts to the environment and, if they qualify for streamlined review, receive a decision regarding the associated HPA in 45 days and are exempt from any local government permitting or fees.

This streamlined review is available for projects of an adequate size or scale that either eliminate human-made fish passage barriers, restore eroded or unstable stream banks, or involve the placement of woody debris into the water. However, not all of these projects are eligible for a streamlined review. To be eligible, the projects must also be approved for specific and limited purposes by the WDFW, a conservation district, or other formal review and approval processes.

Management of fish enhancement projects.

The WDFW and the Department of Transportation (DOT) both have the authority to administer and coordinate grant programs that involve the removal of impediments to fish passage. All grant programs must be consistent with prioritization efforts, competitive application processes, and minimum dollar match criteria. Priority must be given to projects that immediately increase access to spawning and rearing habitat for depressed or endangered fish stocks or that are otherwise coordinated with other projects in a watershed.

Both the WDFW and the DOT must establish a centralized database directory of all fish passage barrier information. The two agencies must also work in partnership to identify cooperative projects that eliminate fish passage barriers caused by state roads and highways.

Coordination between the WDFW and the DOT was initially developed through a jointly convened Fish Passage Barrier Removal Task Force. The task force was made up of state agencies, and representatives of tribal governments, state agencies, local government, and other interested parties. The statutory direction to convene the task force is still codified; however, the task force is no longer active.

Summary of Bill:

Regulatory streamlining.

Two new categories of fish barrier removal projects are added to the list of projects that are eligible for streamlined permitting under the HPA approval process. The first is stand-alone fish barrier removal projects conducted through the DOT's environmental retrofit program. The second addition is fish passage barrier corrections funded through local, state, or federally approved grant programs designed to assist local governments.

In addition, both the WDFW and DOT must explore options with the appropriate federal agencies as to the feasibility of bundling multiple transportation-related fish passage barrier removal projects under any available nationwide federal permitting processes.

Management of fish enhancement projects.

The WDFW is directed to reconvene and maintain the Fish Passage Barrier Removal Task Force; however, the character of the entity is changed from a task force to a management board. The new board is to be chaired by the WDFW and composed of representatives of the DOT, cities, counties, the Governor's Salmon Recovery Office, tribal governments, and the Department of Natural Resources. The chair of the board may also add additional participation as warranted. The board is charged with identifying and expediting the removal of fish passage barriers, making recommendations about proposed funding mechanisms and methodologies, and ensuring that barrier removals are consistent with other state salmon recovery efforts.

Sole direction to administer and coordinate state grant programs related to identifying and removing impediments to salmonid fish passage is provided to the WDFW, including the direction to maintain the database of all fish passage barrier information. The WDFW is also directed to develop a barrier inventory training program to qualify participants to perform barrier inventories and develop data for the centralized database.

Fish passage prioritization principles are provided. These principles are established to guide the WDFW and the DOT in their fish barrier removal efforts. The provided prioritization includes priority for whole stream improvements, projects that benefit depressed or endangered stocks, projects that provide immediate access to high quality habitat, projects that are downstream from other blockages, and projects that are coordinated with other adjacent barrier removals.

Appropriation: None.

Fiscal Note: Requested on January 14, 2014.

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