
**Agriculture & Natural Resources
Committee**

HB 2261

Brief Description: Concerning the use of science to support significant agency actions.

Sponsors: Representatives Short, Fagan and Magendanz.

Brief Summary of Bill

- Requires the Department of Fish and Wildlife to categorize on its website the sources of information relied upon in support of significant agency actions.

Hearing Date: 1/24/14

Staff: Jacob Lipson (786-7196).

Background:

The Washington Department Fish and Wildlife (WDFW) is charged with maximizing fishing, hunting, and outdoor recreation activities for people, while maintaining healthy and diverse fish and wildlife populations. In conjunction with these duties, the WDFW is responsible for adopting rules for the management of hunting and fishing. WDFW is also involved in the development of recovery plans for threatened and endangered fish and wildlife species under state law and the federal Endangered Species Act.

The state Administrative Procedure Act (chapter 34.05 RCW) establishes the rule-making process for state agencies and also outlines the procedural requirements for appealing an agency action. The state Public Records Act (chapter 42.56 RCW) establishes requirements for agency maintenance of public records, and for the provision of those records for public inspection. The public records act requires that certain public records, including records invoked by an agency, be indexed and made available to the public. The records that must be indexed include interpretive statements, policy statements, certain declaratory orders, and orders issued in adjudicative proceedings.

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.

In 2013, the Legislature passed House Bill 1112, which requires that before taking a significant agency action, the WDFW must identify peer-reviewed science, scientific literature, and other sources relied upon for the significant agency action. On its website, the DFW must also provide the index, required by the Public Records Act, of public records invoked or relied upon in support of a proposed significant agency action. The 2013 law defines the term "significant agency action" as an act of the WDFW that: (1) by rule, adopts, under delegated legislative authority, substantive requirements with penalties for noncompliance; (2) by rule, establishes, alters, or revokes any qualification or standard for the issuance, suspension, or revocation of a license or permit; (3) by rule amendment or adoption, results in significant amendments to an existing policy or program; (4) results in the development of fish and wildlife recovery plans; or (5) results in the development of technical guidance, assessments, or documents used to implement a state rule or statute. Significant agency actions do not include any rulemaking by WDFW associated with fishing or hunting rules.

Summary of Bill:

On its website, the WDFW must identify and categorize, in the form of a bibliography or citation list, the sources of information that it relies upon to support significant agency actions. Each source of information relied upon must be designated by WDFW as belonging to one of the following categories:

- independently- peer reviewed by a third party;
- internally peer-reviewed by WDFW staff;
- externally peer-reviewed by WDFW-selected persons;
- openly-reviewed documents whose review was not limited to invited organizations or individuals;
- legal and policy documents;
- data from primary research or monitoring activities that has not been otherwise peer-reviewed;
- records of the professional opinion of WDFW employees and other individuals; and
- other sources of information.

The categories are declared to not imply or infer a hierarchy or a level of quality of the source of information.

The reference to a specific subsection of the Public Records Act governing the use of indexed records by government agencies is replaced with a reference to the entire section which establishes indexing requirements for state and local agencies.

Appropriation: None.

Fiscal Note: Requested on January 20, 2014.

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