

SENATE BILL REPORT

SB 6509

As of February 11, 2014

Title: An act relating to fish barrier removals.

Brief Description: Concerning fish barrier removals.

Sponsors: Senators Liias, Pearson, Hargrove, Dangel, Ranker, McCoy and Rolfes.

Brief History:

Committee Activity: Natural Resources & Parks: 2/04/14 [DPS-WM].
Ways & Means: 2/11/14.

SENATE COMMITTEE ON NATURAL RESOURCES & PARKS

Majority Report: That Substitute Senate Bill No. 6509 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Dangel, Hargrove, Hewitt, Kline and Parlette.

Staff: Bonnie Kim (786-7316)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Sherry McNamara (786-7402)

Background: Any construction project that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters in Washington requires hydraulic project approval (HPA). The Washington Department of Fish and Wildlife (WDFW) issues HPAs to ensure the proper protection of fish life. To receive an HPA, an applicant must provide WDFW with certain information, including general plans for the overall project, complete plans and specifications for construction 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.

Certain fish habitat enhancement projects expected to benefit the environment may qualify for streamlined permit review and are exempt from the State Environmental Policy Act and local permitting. WDFW reviews and approves permits for eligible fish habitat enhancement projects that eliminate human-made fish passage barriers, restore eroded or unstable streambanks, or place woody debris or other instream structures that benefit naturally

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reproducing fish stocks. Projects must also be approved through certain fish habitat and wildlife enhancement or conservation programs.

Summary of Bill: WDFW may review and approve a fish habitat enhancement project approved through (1) the Department of Transportation's (DOT) environmental retrofit program as a standalone fish passage barrier correction project; and (2) a local, state, or federally approved fish barrier removal grant program designed to assist local governments implementing standalone fish passage barrier corrections. WDFW may also contract with cities and counties to assist in identifying and removing fish passage impediments. WDFW is the sole administrator of state grant programs designed to assist public and private entities in removing salmonid fish passage barriers and also takes over maintenance of a centralized database that inventories fish barrier information and provision of technical and engineering support to non-state barrier owners. WDFW must convene and chair a board, with representatives from DOT, DNR, and other local and tribal entities, to identify and expedite human-made or caused fish passage barriers. The board must give priority to barriers caused by state and local roads and highways, and to barriers owned by private parties

DOT and WDFW must initiate contact with the U.S. Army Corps of Engineers, the National Oceanic and Atmospheric Administration, and, if necessary, the U.S. Fish and Wildlife Service to explore the feasibility of bundling multiple transportation-related fish barrier removal projects under any available nationwide permits to streamline federal permitting and reduce processing times. DOT and WDFW must report to the Legislature by October 1, 2016, summarizing the information gathered and any progress made toward using the bundling concept. The partnership between WDFW and DOT to eliminate fish barriers caused by state roads and highways must be based on a principle of maximizing habitat recovery that prioritizes opportunities to correct multiple fish barriers in whole streams and to correct barriers located furthest downstream in a stream system.

Fish barrier projects that are part of an overall transportation improvement project or undertaken as a direct result of state or federal law or a court order are not delayed or prohibited. The state is not liable for any adverse impacts resulting from fish enhancement projects permitted under the streamlined HPA review process.

EFFECT OF CHANGES MADE BY NATURAL RESOURCES & PARKS COMMITTEE (Recommended Substitute):

- Creates state immunity for any adverse impacts resulting from a fish enhancement project permitted under the streamlined HPA review process.
- The partnership between WDFW & DOT to eliminate fish barriers caused by state roads and highways must be based on a principle of maximizing habitat recovery that prioritizes opportunities to correct multiple fish barriers in whole streams and to correct barriers located furthest downstream in a stream system.
- Fish barrier projects that are part of an overall transportation improvement project or undertaken as a direct result of state or federal law or a court order are not delayed or prohibited.
- Removes DOT as an administrator of state grant programs designed to assist public and private entities in removing salmonid fish passage barriers, leaving WDFW as sole administrator.

- WDFW also takes over maintenance of a centralized database that inventories fish barrier information and provides technical and engineering support to non-state barrier owners.
- Requires WDFW to develop a barrier inventory training program with priority given to employees and volunteers of conservation districts and regional salmon recovery groups.
- Creates a board maintained by WDFW with representatives from DOT, DNR, and other local and tribal entities to identify and expedite human-made or caused fish passage barriers. The board is to give priority to barriers caused by state and local roads and highways, and to barriers owned by private parties.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony (Natural Resources & Parks): PRO: There is a federal court order mandating Washington to remove state-owned fish barriers. This bill would facilitate and streamline that process by establishing a process to prioritize and identify fish barriers for removal. Cities and counties already have similar mandates. This bill would allow for coordination between the various actors. This bill would provide great benefits to fish and their habitats while maximizing cost efficiencies. There should to be consultation with the construction and design communities in removing fish barriers.

Persons Testifying (Natural Resources & Parks): PRO: Senator Liias, prime sponsor; Nona Snell, Recreation and Conservation Office; Alison Hellberg, Assn. of WA Cities; Deborah Munguia, WA Forest Protection Assn.; Julie Henning, WDFW; Van Collins, Associated General Contractors.