

HOUSE BILL REPORT

SSB 5705

As Reported by House Committee On:
Agriculture & Natural Resources
General Government & Information Technology

Title: An act relating to establishing a mineral prospecting and mining advisory committee.

Brief Description: Establishing a mineral prospecting and mining advisory committee.

Sponsors: Senate Committee on Natural Resources & Parks (originally sponsored by Senators Ericksen, Sheldon, Pearson, Becker, Bailey, Warnick and Padden).

Brief History:

Committee Activity:

Agriculture & Natural Resources: 3/18/15, 3/25/15 [DP];

General Government & Information Technology: 3/31/15, 4/6/15 [DPA].

**Brief Summary of Substitute Bill
(As Amended by Committee)**

- Requires the Fish and Wildlife Commission to establish and maintain an advisory committee that represents the interests of small scale mineral prospectors and miners.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: Do pass. Signed by 10 members: Representatives Blake, Chair; Lytton, Vice Chair; Buys, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Chandler, Dunshee, Kretz, Orcutt, Pettigrew and Schmick.

Staff: Jason Callahan (786-7117).

Background:

Hydraulic Project Approvals.

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

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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 a HPA, the applicant must provide certain information to the WDFW. This information includes general plans for the overall project and complete plans for the proper protection of fish life.

Until June 30, 2017, most applicants for a HPA are required to pay a \$150 application fee. Exemptions to the fee are provided to projects located above the ordinary high water line, pamphlet HPAs, all HPAs processed under an applicant-funded project, all HPAs related to forest practices or mineral prospecting, and all HPAs occurring on farm or agricultural land. The collected fees are retained by the WDFW for use in implementing the HPA program.

Gold and Fish Pamphlet.

Small scale prospecting and mining activities are not required to be permitted by the WDFW with an individual HPA. Instead, the WDFW maintains rules for small scale prospecting and mining which are published in the "Gold and Fish Pamphlet." These rules describe small scale prospecting and mining activities that may be lawfully engaged in as long as the terms of the Gold and Fish Pamphlet are complied with.

"Small scale prospecting" is defined as discovering and recovering minerals using pans, non-motorized sluice boxes, concentrators, and mini-rocker boxes.

Summary of Bill:

The Fish and Wildlife Commission (Commission) must establish and maintain an advisory committee that represents the interests of small scale mineral prospectors and miners (advisory committee). The advisory committee must provide guidance to issues such as individual HPA processing, relevant rules and rule changes, and the Gold and Fish Pamphlet.

The Commission must appoint between five and nine individuals to the advisory committee. In doing so, the Commission must consult with and consider nominations from small scale mineral prospecting and mining groups.

The advisory committee must meet at least four times each year. Members of the advisory committee may not receive compensation for serving, but are eligible to be reimbursed for travel expenses.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) The WDFW has historically, and recently, undertaken rulemaking without consulting with small scale prospectors and miners. These rules are created by the staff of the WDFW, and if the WDFW had brought small scale prospectors and miners to the table, the resulting rules would have been more effective and less at risk of litigation. Good, clear regulations require full stakeholder involvement. Society has gotten lazy when it comes to involving stakeholders and consults with the same people over and over again instead of reaching out and talking with citizens directly. An advisory committee is an enlightened way to include the affected public.

The small scale prospector and miner community is small in number without the resources necessary to track and influence state government. An advisory committee would give small scale prospectors and miners a role in state government discussions and allow their voices to be heard. An advisory committee is long overdue. Only negative results can be accomplished when the regulating entity has no knowledge of the subject matter it is charged with regulating. Even the best intentions can lead to dire consequences, such as the loss of jobs and economic activity in the state and the regulating of activity to prevent environmental harms that never occur.

Small scale prospectors and miners are the only people with a compendium of peer reviewed, subject-matter science on the effects of small scale prospecting. The WDFW does not know about the science of prospecting or refuses to acknowledge it, and an advisory committee is a way to share the science with the WDFW. Having a process to share the science in an advisory forum will avoid small scale prospectors and miners having to teach each new WDFW biologist what the small scale prospectors and miners do and what effect they have on rivers. An advisory committee will allow the current accomplishments to be maintained and ensure that the ground isn't lost.

A healthy community of small scale prospectors and miners assists in discovering the rare Earth minerals that are important to the technology industry.

(Opposed) There is no answer as to why a special advisory committee is warranted for small scale prospectors and miners when there is no similar advisory committee for any other user group or interest, including tribal resource co-managers. The small scale prospectors and miners already have a seat at the table, are listened to, and often have their needs reflected in the decisions made by the WDFW. There is no reason to spend state money and energy so that only one group can provide input.

Persons Testifying: (In support) William Thomas, Mark Erickson, and Bert Swift, Resource Coalition; Bruce Beatty; Harley Edwards; Robert Cunningham; and Cindy Alia, Citizens Alliance for Property Rights.

(Opposed) Dawn Vyvyan, Sauk-Suiattle Tribe and Yakama Nation.

Persons Signed In To Testify But Not Testifying: None.

**HOUSE COMMITTEE ON GENERAL GOVERNMENT & INFORMATION
TECHNOLOGY**

Majority Report: Do pass as amended. Signed by 7 members: Representatives Hudgins, Chair; Senn, Vice Chair; MacEwen, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; McCabe, Morris and Takko.

Staff: Dan Jones (786-7118).

Summary of Recommendation of Committee On General Government & Information Technology Compared to Recommendation of Committee On Agriculture & Natural Resources:

The committee amendment limits the advisory committee to four meetings a year, removes language entitling advisory committee members to be reimbursed for travel expenses, terminates the authority for the advisory committee after five years (following a report from the Department of Fish and Wildlife regarding the effectiveness of the advisory committee and making any suggestions to an extension of the termination date), and makes the bill null and void if funding is not provided in the budget.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) None.

(Opposed) None.

Persons Testifying: None.

Persons Signed In To Testify But Not Testifying: None.