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HOUSE BILL 1434

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State of Washington

64th Legislature

2015 Regular Session

By Representatives Blake, Buys, Takko, Kretz, and Tharinger

Read first time 01/20/15. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to forage fish spawning habitat; adding a new  
2 section to chapter 77.55 RCW; and creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature finds that forage fish,  
5 including herring, surf smelt, and sand lance, are important and  
6 delicate middle tiers of Washington's marine food web. The department  
7 of fish and wildlife has successfully surveyed many beaches in the  
8 state and maintains information relating to the distribution of  
9 spawning locations and the preferred spawning habitat qualities of  
10 many forage fish species. From those surveys, the characteristics of  
11 preferred spawning beaches can be identified based on factors such as  
12 sediment size, shading, and slope. This information is currently used  
13 by the department of fish and wildlife to condition hydraulic project  
14 approvals on beaches that have been surveyed. However, successful  
15 conservation of forage fish species can be more predictably achieved  
16 if the department of fish and wildlife uses information gathered from  
17 formal surveys to inform decisions relating to beaches that have not  
18 been surveyed.

19 NEW SECTION. **Sec. 2.** A new section is added to chapter 77.55  
20 RCW to read as follows:

1           (1) The department may establish reasonable conditions on any  
2 permit issued under RCW 77.55.021 for the protection of forage fish  
3 spawning habitat on beaches or other portions of waters that have not  
4 been specifically surveyed by the department to be spawning habitat  
5 for forage fish if a likelihood of forage fish spawning habitat can  
6 be inferred by the department based on the presence of surveyed  
7 forage fish spawning habitat on beaches or in other waters with  
8 similar characteristics or qualities. Allowable conditions for the  
9 protection of forage fish spawning habitat include project timing,  
10 location, design, and construction methods.

11           (2)(a) A project applicant may, as an alternative to a condition  
12 established under this section, conduct a survey to disprove the  
13 presence of forage fish habitat at the project site. The survey must  
14 be approved by the department and funded by the project applicant.

15           (b) If a survey conducted under this subsection shows to the  
16 department's satisfaction that the project site does not contain  
17 forage fish habitat, then the department may not place conditions on  
18 the permit under the authority provided by this section.

19           (3) Any conditions established consistent with this section are  
20 considered to be reasonable under RCW 77.55.021 and 77.55.231.

21           (4) Nothing in this section relates to the authority to set  
22 conditions on beaches or in other waters where the department has  
23 affirmably documented forage fish spawning habitat.

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