

# SENATE BILL REPORT

## ESSB 5393

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As Passed Senate, February 28, 2017

**Title:** An act relating to including fish passage barrier removal projects that comply with the forest practices rules in the streamlined permit process provided in RCW 77.55.181.

**Brief Description:** Including fish passage barrier removal projects that comply with the forest practices rules in the streamlined permit process provided in RCW 77.55.181.

**Sponsors:** Senate Committee on Natural Resources & Parks (originally sponsored by Senators Warnick, Liias, Takko and Pearson).

**Brief History:**

**Committee Activity:** Natural Resources & Parks: 1/31/17, 2/07/17 [DPS].

**Floor Activity:**

Passed Senate: 2/28/17, 49-0.

**Brief Summary of Engrossed First Substitute Bill**

- Provides streamlined review under the existing fish habitat enhancement project approval process for fish passage barrier removal projects that are approved by the Department of Natural Resources under forest practices rules.

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### SENATE COMMITTEE ON NATURAL RESOURCES & PARKS

**Majority Report:** That Substitute Senate Bill No. 5393 be substituted therefor, and the substitute bill do pass.

Signed by Senators Pearson, Chair; Hawkins, Vice Chair; Van De Wege, Ranking Minority Member; Fortunato and McCoy.

**Staff:** Curt Gavigan (786-7437)

**Background:** Fish Habitat Enhancement Process Permitting. Certain fish habitat enhancement projects may qualify for streamlined review and approval process by the Department of Fish and Wildlife (DFW). The statute states that qualifying projects are expected to result in beneficial impacts to the environment and:

- receive a decision regarding the associated hydraulic project approval in 45 days; and

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*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.*

- are exempt from any local government permitting and associated fees, although local governments have 15 days to provide review and comment to DFW.

To receive streamlined review, a project must:

- meet project type criteria, such as for fish passage barriers removal, eroded or unstable stream bank restoration, or woody debris placement project; and
- meet approval criteria, such as approval by DFW, a conservation district, the Department of Transportation, a city or county, or another formal review and approval process.

Integration of Forest Practices and Hydraulic Project Permitting. In 2012, the Legislature directed the integration of hydraulic project review into forest practices permitting. The integration process included:

- the Forest Practices Board incorporating fish protection standards into the Forest Practices Rules; as well as approving technical guidance;
- the ability for DFW to continue to review and comment on any Forest Practices Application (FPA); and
- a requirement that DFW review, and either verify that the review has occurred or comment on, certain FPAs relating to fish bearing waters, shorelines of the state, and water crossing structures.

**Summary of Engrossed First Substitute Bill:** Fish passage barrier removal projects that are approved by Department of Natural Resources (DNR) under forest practices rules are eligible for streamlined review and approval under the fish habitat enhancement process permitting process.

Forest practices applicants must provide copies of their FPA to appropriate local governments for purposes of their review and comment, unless they are otherwise required to submit a joint aquatic resource permit. DNR's permitting decisions must be made consistent with the process for forest practices hydraulic project approvals. Makes technical changes and specifies appeals procedures.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony on Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: This bill will help promote fish passage projects on forestland, streamlining permitting without diminishing environmental protection. The stakeholders have identified some technical corrections to ensure the bill works as intended. Landowners agreed to remove fish passage barriers through the Forests and Fish agreement, and this bill supports these projects on lands owned by large and small forest landowners.

**Persons Testifying:** PRO: Senator Judy Warnick, Prime Sponsor; Adrian Miller, Pope Resources; Jeff Davis, WDFW; Stephen Bernath, DNR; Heather Hansen, WA Farm Forestry Assn.; Jason Callahan, Washington Forest Protection Association.

**Persons Signed In To Testify But Not Testifying:** No one.