

HOUSE BILL REPORT

ESSB 6147

As Reported by House Committee On:
Rural Development, Agriculture, & Natural Resources

Title: An act relating to the replacement of shoreline armoring.

Brief Description: Concerning the replacement of shoreline armoring.

Sponsors: Senate Committee on Agriculture, Water, Natural Resources & Parks (originally sponsored by Senators Salomon, Lovelett, Wilson, C., Rolfes, Billig and Keiser).

Brief History:

Committee Activity:

Rural Development, Agriculture, & Natural Resources: 2/25/20, 2/28/20 [DPA].

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

- Creates a hierarchy of conditions to be imposed in connection with an application for a Hydraulic Project Approval permit for the replacement of marine shoreline stabilization or armoring.
- Requires the Department of Fish and Wildlife to adjust the order of preference of permit conditions if the project proponent can demonstrate that the preferred alternative is cost prohibitive or practically infeasible.

HOUSE COMMITTEE ON RURAL DEVELOPMENT, AGRICULTURE, & NATURAL RESOURCES

Majority Report: Do pass as amended. Signed by 8 members: Representatives Blake, Chair; Shewmake, Vice Chair; Chapman, Fitzgibbon, Lekanoff, Pettigrew, Ramos and Springer.

Minority Report: Do not pass. Signed by 6 members: Representatives Chandler, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Dye, Orcutt, Schmick and Walsh.

Staff: Riley O'Leary (786-7296) and Robert Hatfield (786-7117).

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.

Background:**Hydraulic Project Approval.**

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 the salt or fresh waters of the state. Hydraulic project approvals are issued by the Department of Fish and Wildlife (WDFW) to ensure the proper protection of fish life. To receive an 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. The WDFW may impose conditions on a permit. The permit conditions must ensure that the project provides proper protection for fish life, but the WDFW may not impose conditions that attempt to optimize conditions for fish life that are out of proportion to the impact of the proposed project.

Summary of Amended Bill:

Projects for the replacement of marine shoreline stabilization or armoring, bulkheads, or other measures to protect residential structures from marine shoreline erosion must consider the least impactful alternative for the protection of fish life in the following order of preference:

- remove the structure and restore the beach;
- remove the structure and install native vegetation;
- remove the structure and control upland drainage;
- remove the structure and replace it with a soft structure constructed of natural materials, including bioengineering;
- remove the hard structure and construct upland retaining walls;
- remove the hard structure and replace it with a hard structure located landward of the existing structure, preferably at or above the ordinary high water line; or
- remove the hard structure and replace it with hard shoreline structure in the same footprint as the existing structure.

The Department of Fish and Wildlife is required to adjust the order of preference if the project proponent can demonstrate that the preferred alternative is cost prohibitive or practically infeasible.

Amended Bill Compared to Engrossed Substitute Bill:

The amended bill adds language to the underlying bill that requires the Department of Fish and Wildlife to adjust the order of preference of permit conditions if the project proponent can demonstrate that the preferred alternative is cost prohibitive or practically infeasible.

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.

Staff Summary of Public Testimony:

(In support) There is a dramatic reduction in salmon runs, and the decrease in salmon adversely impacts Orca whales and other marine life. Efforts to identify cost effective methods to ameliorate the decline in salmon population are ongoing, but it can be challenging to balance the protection of fish life with the protection of property rights. This bill strikes a good balance between supporting salmon and respecting property rights by allowing residents to consider alternatives to replacing bulkheads in their existing footprint, but it does not require them to deploy the least impactful alternative.

Approximately 29 percent of the Puget Sound shoreline is covered by bulkheads, which leads to the destruction and deterioration of the habitat that fish need to survive. These structures are often built purely for aesthetic preferences and they wear out over time. Many shoreline homeowners believe that the bulkheads are necessary to prevent erosion, so the structures are mended or replaced. Sometimes the existing bulkhead structures do not need to be replaced however, and the removal or the replacement of a structure with a better alternative can be cheaper and more effective.

The Department of Fish and Wildlife has trained engineers and biologist to identify the causes of shoreline erosion and can provide guidance on how to prevent erosion. Geotechnical assessments are part of the permitting process and are meant to advise project proponents on how to protect and restore the shoreline. Geotechnical assessments are required for new bulkheads and should be required for replacement projects as well.

This bill would not pose substantial costs to the state.

(Opposed) It is unclear how a project proponent can move from one option within the hierarchy to the next. There is no balancing for the cost of the different options for the project proponents and the least impactful alternative may generate a substantially higher cost for the project proponent.

Persons Testifying: (In support) Senator Salomon, prime sponsor; Bruce Wishart, Sound Action; Martin Gibbins, League of Women Voters; Wendy Gerstel; Tom McBride and Randi Thurston, Department of Fish and Wildlife; and Jeff Parsons, Puget Sound Partnership.

(Opposed) Steve Gano, Building Industry Association of Washington.

Persons Signed In To Testify But Not Testifying: None.