

HOUSE BILL REPORT

SB 5146

As Passed House:

April 9, 2021

Title: An act relating to authorizing the fish and wildlife commission to indemnify the federal government as a condition of securing certain funds.

Brief Description: Authorizing the fish and wildlife commission to indemnify the federal government as a condition of securing certain funds.

Sponsors: Senator Van De Wege.

Brief History:

Committee Activity:

Rural Development, Agriculture & Natural Resources: 3/16/21, 3/19/21 [DP];
Capital Budget: 3/30/21, 3/31/21 [DP].

Floor Activity:

Passed House: 4/9/21, 97-0.

Brief Summary of Bill

- Provides that the Fish and Wildlife Commission may indemnify the United States and its agencies as a condition to secure federal funds for fish, shellfish, and wildlife projects.

HOUSE COMMITTEE ON RURAL DEVELOPMENT, AGRICULTURE & NATURAL RESOURCES

Majority Report: Do pass. Signed by 15 members: Representatives Chapman, Chair; Shewmake, Vice Chair; Chandler, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Fitzgibbon, Klicker, Kloba, Kretz, Lekanoff, McEntire, Morgan, Orcutt, Ramos, Schmick and Springer.

Staff: Rebecca Lewis (786-7339).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON CAPITAL BUDGET

Majority Report: Do pass. Signed by 22 members: Representatives Tharinger, Chair; Callan, Vice Chair; Hackney, Vice Chair; Steele, Ranking Minority Member; Abbarno, Assistant Ranking Minority Member; McEntire, Assistant Ranking Minority Member; Bateman, Dye, Eslick, Gilday, Kloba, Kraft, Leavitt, MacEwen, Maycumber, Mosbrucker, Peterson, Riccelli, Rule, Santos, Sells and Shewmake.

Staff: John Wilson-Tepeli (786-7115).

Background:

The Fish and Wildlife Commission has authority to enter into agreements with a variety of entities, including the federal government or its agencies, regarding fish, shellfish, and wildlife-oriented recreation, as well as the propagation, protection, conservation, and control of fish, shellfish, and wildlife. Certain federal agencies may require indemnification language in their contracts. For example, the United States Army Corps of Engineers requires indemnification for damages arising from the design, construction, and operation of aquatic ecosystem restoration projects. Indemnity may be included as a clause in contracts in which the actions or mistakes of one party may result in the other party being liable for damages. In most contracts, an indemnification clause serves to compensate a party for harm or loss arising in connection with the other party's actions or failure to act.

Summary of Bill:

The Fish and Wildlife Commission may indemnify the United States and its agencies as a condition to secure federal funds for fish, shellfish, and wildlife projects.

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 (Rural Development, Agriculture & Natural Resources):

(In support) Congress authorized about \$300 million in federal funding for Puget Sound restoration projects, including the Duckabush project. The Army Corps of Engineers requires indemnification clauses in their contracts to enter into agreements to receive federal funding in every state. This would not mean that the Army Corps of Engineers would not pay for their own mistakes, and indemnification would not obligate the state to match federal funds. This bill is narrowly tailored to ensure federal funding may be secured for

fish and wildlife projects.

(Opposed) None.

Staff Summary of Public Testimony (Capital Budget):

(In support) In 2016 Congress authorized about \$300 million in federal funding for Puget Sound restoration projects, including the Duckabush River project. The Army Corps of Engineers requires indemnification clauses in their contracts to enter into agreements to receive federal funding in every state. This is not a new Army Corps policy or requirement. As discussed in the Senate public hearing on this bill, this would not mean that the Army Corps of Engineers would not pay for their own mistakes, and indemnification would not obligate the state to match federal funds. This bill is narrowly tailored to ensure federal funding may be secured for fish and wildlife projects. Although this bill relates to enabling the Duckabush River project in the near term, there are other projects funded through this authorization that would be enabled as a result of the bill.

(Opposed) None.

Persons Testifying (Rural Development, Agriculture & Natural Resources): Tom McBride, Washington Department of Fish and Wildlife.

Persons Testifying (Capital Budget): Tom McBride, Washington Department of Fish and Wildlife.

Persons Signed In To Testify But Not Testifying (Rural Development, Agriculture & Natural Resources): None.

Persons Signed In To Testify But Not Testifying (Capital Budget): None.