

HOUSE BILL REPORT

SSB 5273

As Passed House - Amended:

March 28, 2021

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, Rolfes, Pedersen, Das, Lovelett and Nobles).

Brief History:

Committee Activity:

Rural Development, Agriculture & Natural Resources: 3/12/21, 3/16/21 [DPA].

Floor Activity:

Passed House: 3/28/21, 57-40.

**Brief Summary of Substitute Bill
(As Amended By House)**

- Requires a person wishing to replace residential marine shoreline stabilization or armoring to use the least impacting technically feasible bank protection alternative for the protection of fish life.
- Requires a person to conduct a site assessment before replacing marine residential shoreline stabilization or armoring, unless granted an exemption by the Department of Fish and Wildlife.
- Requires a person to consider certain site characteristics before proposing a hard armor technique.
- Establishes a hierarchy of marine residential shoreline stabilization techniques.

HOUSE COMMITTEE ON RURAL DEVELOPMENT, AGRICULTURE & NATURAL RESOURCES

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.

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

Minority Report: Do not pass. Signed by 6 members: Representatives Chandler, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Klicker, Kretz, McEntire and Schmick.

Staff: Robert Hatfield (786-7117).

Background:

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 proportionate conditions on a permit.

Other permitting requirements may also apply to certain projects located along waterways, including, for example, the requirement to obtain a shoreline substantial development permit issued under the Shoreline Management Act.

Summary of Amended Bill:

If a person wishes to replace residential marine shoreline stabilization or armoring, that person must use the least impacting technically feasible bank protection alternative for the protection of fish life. Unless the Department of Fish and Wildlife provides an exemption depending on the scale and nature of the project, a person that wishes to replace residential marine shoreline stabilization or armoring must conduct a site assessment to consider the least impactful alternatives.

A person should propose a hard armor technique only after considering site characteristics such as the threat to major improvements, wave energy, and other factors in an analysis of alternatives.

A hierarchy of stabilization techniques is created, in descending 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.

For the purposes of the requirements related to the replacement of residential marine shoreline stabilization or armoring, "feasible" means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

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) There are bulkheads along about one third of the shorelines in Puget Sound. Smelt and candle fish used to come up on the beaches to spawn but cannot do that as much anymore because there is less shallow water as a result of the prevalence of bulkheads. Many bulkheads went in without much site analysis and are not always actually necessary to prevent erosion. Under the bill, if site analysis shows that the bulkhead needs to be replaced, a property owner can still replace their bulkhead. But if the site analysis shows that something less than a bulkhead would work, the property owner would need to use something less.

The bill would add to Puget Sound recovery goals. The bill would require landowners who are thinking of replacing a bulkhead to use the least impactful alternative that works for their site. Landowners are interested in being stewards, and this bill shows them how they can help. Site analysis is already required by many local governments, so this bill aligns with those existing requirements.

Armoring is one of the metrics used to gauge Puget Sound health. Approximately 29 percent of shoreline in Puget Sound is walled off with bulkheads. Bulkheads deprive beaches of needed sand and other nutrients, which impacts forage fish, which then impacts other animals like salmon and orca. Restoring shorelines is one of the greatest near-term restoration opportunities.

The bill is a pragmatic and reasonable step to help property owners who are part of the team in salmon recovery. This was a recommendation from the Southern Resident Orca Task Force. This bill supports the people and communities who rely on salmon, including tribes.

(Opposed) The regulations already in place are working. There is no reason to pile on to the

existing permitting process. To even get to the shoreline exemption, a person has to fill out an exemption form, then needs to include maps and descriptions, then do a State Environmental Policy Act checklist, then do a biological assessment, then do a geotechnical report, which triggers a hydraulic project approval, which then triggers a Department of Archaeology and Historic Preservation analysis. The 45-day window of time is not really 45 days; one recent armoring project took 360 working days to do a repair of soft armoring. These permits are also expensive.

Local and state regulations provide ample environmental review and protection for shoreline habitat. According to the Puget Sound Partnership website, more hard armoring has been removed since 2005 than has been put in, which shows that the current regime is working. There are instances where hard armoring needs to be replaced with hard armoring. Those exemptions are not set out in the statute, which leads to uncertainty. It is unclear who will do the site assessment. There needs to be some clarity around feasibility and cost.

Persons Testifying: (In support) Senator Salomon, prime sponsor; Margen Carlson, Department of Fish and Wildlife; Jeff Parsons, Puget Sound Partnership; and Darcy Nonemacher, Washington Environmental Council.

(Opposed) Jay Roberts, Cascade Custom Homes and Design Inc.; and Josie Cummings, Building Industry Association of Washington.

Persons Signed In To Testify But Not Testifying: None.