

HOUSE BILL REPORT

E2SSB 5885

As Reported by House Committee On:
Environment & Energy

Title: An act relating to marine shoreline habitat.

Brief Description: Concerning marine shoreline habitat.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Salomon, Stanford, Hasegawa, Keiser, Lovelett, Nobles and Rolfes).

Brief History:

Committee Activity:

Environment & Energy: 2/22/22, 2/24/22 [DPA].

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

- Directs the Department of Ecology to conduct a baseline survey of Puget Sound marine shorelines, including the creation of a comprehensive on-the-water view of the shoreline.
- Provides that the imaging acquired as part of the survey may be used to evaluate whether, on an aggregate basis, state programs and regulations are succeeding in meeting their objectives with regard to the health of Puget Sound.
- Prohibits the use of the imaging acquired as part of the survey in any civil or criminal enforcement proceeding by any state or local agency.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

Majority Report: Do pass as amended. Signed by 11 members: Representatives Fitzgibbon, Chair; Duerr, Vice Chair; Dye, Ranking Minority Member; Klicker, Assistant Ranking Minority Member; Abbarno, Berry, Fey, Harris-Talley, Ramel, Shewmake and

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.

Slatter.

Minority Report: Do not pass. Signed by 2 members: Representatives Boehnke and Goehner.

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.

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 WDFW 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.

Summary of Amended Bill:

Baseline Survey of Puget Sound.

By June 30, 2023, the Department of Ecology must conduct a baseline survey of Puget Sound marine shorelines that renews oblique shoreline aerial imagery and incorporates the use of new technology to create a 360-degree on-the-water comprehensive view of the shoreline. The marine shoreline survey must be updated on a regular five-year cycle. The survey must document and map existing shoreline conditions, structures, and structure conditions, including structures in disrepair and structures and vessels that potentially are derelict, and must be available to the public and incorporated into state geographic information system mapping.

The imaging acquired as part of the survey may be used to evaluate whether, on an aggregate basis, state programs and regulations are succeeding in meeting their objectives with regard to the health of Puget Sound.

The imaging acquired as part of the survey may not be used in any civil or criminal enforcement proceeding by any state or local agency.

"Puget Sound" means the marine waters of Washington east of a line extending from Discovery Island light south to New Dungeness light and all points in the Puget Sound area including, but not limited to, the San Juan Islands and connected waterways, and the marine waters south of Admiralty Inlet, including Hood Canal, to the extent that these waters are within the territorial boundaries of Washington.

Amended Bill Compared to Engrossed Second Substitute Bill:

A provision is added to indicate that the imaging acquired as part of the survey may be used to evaluate whether, on an aggregate basis, state programs and regulations are succeeding in meeting their objectives with regard to the health of Puget Sound.

A provision is added that prohibits the use of the imaging acquired as part of the survey in any civil or criminal enforcement proceeding by any state or local agency.

The direction to state and local permitting agencies to consider survey results when considering whether to exercise enforcement authority is removed.

The section related to standards for the replacement of marine structures is removed.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 24, 2022.

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) Shoreline structures have big impacts on nearshore habitats, including impacts on forage fish spawning habitat, which in turn affects the food supply of salmon and orcas. A Puget Sound-wide survey of shoreline structures is vital in understanding the impact and distribution of shoreline structures. A Senate floor amendment applied bulkhead standards to marine structures, which is confusing.

The bill requires a shoreline survey using an eye-level view, which is a better viewing angle for identifying marine structures. Puget Sound has been losing all species of salmon, especially the chinook salmon that southern resident killer whales depend on. The bill would improve shoreline habitat.

(Opposed) None.

Persons Testifying: Scott Andrews, Audubon Washington; and Raelene Gold, League of

Women Voters of Washington.

Persons Signed In To Testify But Not Testifying: None.