

SENATE BILL REPORT

SB 5146

As Passed Senate, February 23, 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: Agriculture, Water, Natural Resources & Parks: 1/21/21, 2/11/21 [DP].

Floor Activity: Passed Senate: 2/23/21, 49-0.

Brief Summary of Bill

- Authorizes the Fish and Wildlife Commission to indemnify the United States and its agencies as a condition of securing federal funds for purposes of fish, shellfish, and wildlife projects.

SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

Majority Report: Do pass.

Signed by Senators Van De Wege, Chair; Salomon, Vice Chair; Warnick, Ranking Member; Honeyford, Rolfes, Short and Stanford.

Staff: Jeff Olsen (786-7428)

Background: Certain federal agencies may require indemnification language in their contracts. For example, the United States Army Corps of Engineers requires

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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.

Federal funding has been authorized for the Puget Sound Nearshore Ecosystem Restoration Project (PSNERP). One of the projects recommended in the PSNERP is the Duckabush estuary restoration project. The project would occur primarily on public land and would reconnect the Duckabush River to neighboring floodplains and wetlands.

Summary of Bill: The Fish and Wildlife Commission may indemnify the United States and its agencies as a condition of securing federal funds for purposes of fish, shellfish, and wildlife projects.

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: PRO: In 2016, Congress authorized funding to the U.S. Army Corps of Engineers for the Puget Sound Nearshore Ecosystem Restoration Project. In all 50 states the Army Corps requires indemnification language in their contracts to enter into agreements to receive federal funding. Currently, the Duckabush Estuary Restoration Project, along with other projects, are examples of projects that could move forward if this authority is provided. Both the Department of Natural Resources and the Department of Transportation already have indemnification authority. This authority is specific to securing funding from the federal government for fish and wildlife projects.

Persons Testifying: PRO: Tom McBride, Department of Fish and Wildlife.

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