

# FINAL BILL REPORT

## HB 1775

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Synopsis as Enacted

**Brief Description:** Limiting liability for salmon recovery projects performed by regional fisheries enhancement groups.

**Sponsors:** Representatives Lekanoff, Chapman, Ramel and Reed.

**House Committee on Agriculture and Natural Resources**

**Senate Committee on Agriculture, Water, Natural Resources & Parks**

### **Background:**

#### Salmon Habitat Projects.

The Governor's Salmon Recovery Office, located within the Recreation and Conservation Office, is responsible for coordinating the state strategy to allow for salmon recovery to healthy, sustainable population levels. Part of that responsibility is to coordinate and assist in the development, implementation, and revision of regional salmon recovery plans as part of the statewide strategy for salmon recovery. The Salmon Recovery Funding Board (SRFB), consisting of five voting Governor appointees and five state officials serving as ex officio nonvoting members, determines which projects receive funding.

Washington's system of watersheds is divided into eight Salmon Recovery Regions: Hood Canal, Lower Columbia River, Middle Columbia River, Northeast Washington, Puget Sound, Snake River, Upper Columbia River, and Washington Coast.

Within the eight Salmon Recovery Regions, the county, city, and tribal governments jointly designate areas for which a habitat project list is to be developed and designate a lead entity. The lead entity may be a county, city, conservation district, special district, tribal government, regional recovery organization, or other entity. Once selected, a lead entity must establish a committee to provide citizen-based evaluations of the projects proposed for the habitat project list.

Projects eligible for the list include restoration projects, protection projects, water quality

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projects, habitat-related mitigation projects, project maintenance, and monitoring activities. No project included on a habitat project list is mandatory and no private landowner may be forced to participate in any project. All areas covered by a project must be based on a water resource inventory area (WRIA), a combination of WRIsAs, or be an area agreed to by the counties, cities, and tribes.

Together, the lead entity and the committee evaluate the suggested projects, prioritize them, define the sequence for project implementation, and submit the habitat project list to the SRFB.

#### Regional Fisheries Enhancement Groups.

The creation of Regional Fisheries Enhancement Groups (RFEGs) was authorized in 1990. Each of the 14 current RFEGs are separate nonprofit organizations led by their own board of directors and supported by their members. The statutory goals of RFEGs are centered around enhancing the salmon and steelhead resources of the state, including developing projects designed to supplement fishery enhancement capability of the Department of Fish and Wildlife, and maximizing volunteer efforts and private donations to improve the salmon and steelhead resources for all citizens.

#### Landowner Liability for Habitat Projects.

A landowner whose land is used for a habitat project that is included on a habitat project list may not be held civilly liable for property damage resulting from the habitat project regardless of whether the project was funded by the SRFB, if the landowner has received notice from the project sponsor that the following conditions have been met:

- the project was designed by a licensed professional engineer or a licensed geologist with experience in riverine restoration;
- the project is designed to withstand 100-year floods;
- the project is not located within one-quarter mile of an established downstream boat launch;
- the project is designed to allow adequate response time for in-river boaters to safely evade in-stream structures; and
- if the project includes large wood placement, each individual root wad and each log larger than 10 feet long and 1 foot in diameter must be visibly tagged with a unique numerical identifier that will withstand typical river conditions for at least three years.

#### **Summary:**

An RFEG performing a habitat project that is included on a habitat project list may not be held civilly liable for property damage resulting from the habitat project regardless of whether the project was funded by the SRFB, if the following conditions have been met, unless the damage is due to acts or omissions constituting gross negligence or willful or wanton misconduct:

- the project was designed by a licensed professional engineer or a licensed geologist with experience in riverine restoration;

- the project is designed to withstand 100-year floods;
- the project is not located within one-quarter mile of an established downstream boat launch;
- the project is designed to allow adequate response time for in-river boaters to safely evade in-stream structures; and
- if the project includes large wood placement, each individual root wad and each log larger than 10 feet long and 1 foot in diameter must be visibly tagged with a unique numerical identifier that will withstand typical river conditions for at least three years.

**Votes on Final Passage:**

House 95 2

Senate 31 18 (Senate amended)

House 93 3 (House concurred)

**Effective:** July 23, 2023