

SENATE BILL REPORT

ESHB 1758

As of March 14, 2023

Title: An act relating to permitting for certain hatchery maintenance activities.

Brief Description: Concerning permitting for certain hatchery maintenance activities.

Sponsors: House Committee on Environment & Energy (originally sponsored by Representatives Mena, Fitzgibbon, Chapman, Morgan and Reed).

Brief History: Passed House: 2/28/23, 97-0.

Committee Activity: Local Government, Land Use & Tribal Affairs: 3/14/23.

Brief Summary of Bill

- Exempts certain projects and activities undertaken by the Department of Fish and Wildlife, a federally recognized Indian tribe, or a public utility district to maintain fish hatcheries from Shoreline Management Act permits, variances, and local government review.

SENATE COMMITTEE ON LOCAL GOVERNMENT, LAND USE & TRIBAL AFFAIRS

Staff: Karen Epps (786-7424)

Background: The Shoreline Management Act of 1971 (SMA) governs shoreline usage of the state. With some exceptions, shorelines include all water areas of the state, the land underlying them, and their associated shorelands. The SMA requires that most developments near state shorelines be consistent with shoreline master programs, which are plans developed by local governments for the uses of its shoreline areas. Certain projects require a substantial development permit that is reviewed by the local government and filed with the Department of Ecology. Projects that require a substantial development permit include developments exceeding a cost of \$8,504 as adjusted for inflation by the Office of Financial Management in July 2022, or any development that materially interferes with the

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.

normal public use of the water or shorelines of the state. In certain property-specific circumstances, variance permits or conditional use permits may be issued by a local government that allow for development that is not consistent with the local shoreline master program.

Certain projects and activities, such as maintenance, repair, or replacement activities within the roadway prism of state highways, or the lease or ownership area of state ferry terminals and transit facilities, are exempted from requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other local government review conducted to implement the SMA.

Summary of Bill: Projects and activities undertaken by the Department of Fish and Wildlife, a federally recognized Indian tribe, or a public utility district to maintain the operation of fish hatcheries, including water intakes and discharges, fish ladders, water and power conveyances, weirs, and racks and traps used for fish collection, do not require a substantial development permit, conditional use permit, variance, letter of exemption, or other review conducted by a local government pursuant to the SMA:

- maintenance, repair, or replacement of equipment and components that support the larger hatchery facility and occur within the existing footprint of fish hatchery facilities;
- construction or installation of safety structures and equipment;
- maintenance occurring within existing water intake and outflow sites during times when fish presence is minimized; or
- construction undertaken in response to unforeseen, extraordinary circumstances that is necessary to prevent a decline, lapse, or cessation of operation of a state fish hatchery facility.

The proponent of a fish hatchery maintenance project must ensure compliance with the substantive requirements of the SMA for fish hatchery maintenance projects described above. Fish hatchery maintenance projects must not adversely affect public access or shoreline ecological functions. Prior to beginning a maintenance or repair project, the proponent of the project must provide written notification of fish hatchery maintenance projects described above to the local government with jurisdiction and to the Department of Ecology.

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: This bill will streamline permitting for

routine hatchery maintenance including water intakes and fish ladders. This bill came from the Department of Fish and Wildlife and the bill was extended to tribal nations and public utility districts. This bill will allow for quick fixes when they are needed. The bill is one small way to help with salmon recovery efforts. This bill is about timing to do routine maintenance when fish are not present. The bill establishes a notice provision to let local governments and Ecology know when routine maintenance is being done. This bill is clarifying an existing exemption for normal maintenance and repair specifically for hatcheries from any kind of shoreline permitting, but is limited to existing facilities and their existing footprint.

Persons Testifying: PRO: Representative Sharlett Mena, Prime Sponsor; Tom McBride, WDFW; Tim Gates, ECY.

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