

# SENATE BILL REPORT

## E2SSB 5632

---

As Passed Senate, March 14, 1995

**Title:** An act relating to flood damage reduction.

**Brief Description:** Providing for flood damage reduction.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators A. Anderson, Drew, Owen, Hargrove, Swecker, Morton, Hale, Haugen, Finkbeiner, Strannigan, Moyer, Palmer, Johnson, Quigley and Rasmussen).

**Brief History:**

**Committee Activity:** Natural Resources: 2/9/95, 2/24/95 [DPS].

Ways & Means: 3/3/95, 3/6/95 [DP2S, DNP].

Passed Senate, 3/14/95, 38-10.

---

### SENATE COMMITTEE ON NATURAL RESOURCES

**Majority Report:** That Substitute Senate Bill No. 5632 be substituted therefor, and the substitute bill do pass.

Signed by Senators Drew, Chair; A. Anderson, Hargrove, Haugen, Morton, Oke, Owen, Snyder, Strannigan and Swecker.

**Staff:** Vic Moon (786-7469)

**Background:** Responsibility for flood hazard prevention and management is divided between a number of agencies and jurisdictions. Locally, counties may adopt comprehensive flood control management plans on an optional basis, to establish a scheme for flood control protection. County plans may apply to cities and towns, or cities and towns may adopt their own plans.

The Department of Ecology has the authority to approve or reject designs and plans for any structure to be erected upon the banks, in the channel, or in the floodway of any stream or body of water. The Department of Ecology also provides technical assistance to local governments in the development of flood plain management ordinances, and reviews and approves these ordinances.

The Department of Fisheries has the responsibility to provide hydraulic project approval for any project that would use, divert, obstruct, or change the natural flow or bed of any waters of the state. Protection of fish life is the only grounds upon which approval may be denied or conditioned. The Department of Fisheries has also established rules regulating work within the waters of the state.

The Department of Natural Resources has authority over aquatic lands. The department has established rules governing use or modification of any river system.

Concerns have been raised that the lack of a coordinated state flood control policy makes it difficult to obtain permits for flood protection projects.

**Summary of Bill:** Reducing flood damage to the use of structural and nonstructural projects is in the public interest. It is the state's duty to assist in funding flood control projects.

Counties planning under growth management must make all regulations consistent with the county flood management plan. Counties planning under growth management must also make county land designations, such as agriculture, forest, mineral or critical areas, be consistent with the county flood management plan.

Flood prevention and minimization is specifically added to the list of responsibilities of SEPA. The Department of Fish and Wildlife gravel removal WACs are clarified with changes. This includes establishment of an excavation line parallel to the water's edge, establishment of a minimum gradient upward from the excavation line at 1/2 percent and allows excavated minerals to be stored within the high water mark from June 15 to August 15.

Hydraulic permit decisions may not affect the amount, timing or delivery method of water diverted under surface water diversions after the water leaves the stream and before it returns.

Individuals who win hydraulic permit appeal may be awarded legal and engineering costs. The Department of Natural Resources River Management WACs are codified with changes allowing sand and gravel removal if it will continue to increase flood protection. Gravel removal is allowed for areas that have accumulations of gravel if consistent with the county flood plan.

No gravel royalty may be charged to counties who remove gravel from a stream for flood control purposes. Counties must complete flood hazard management plans by December 31, 1999 or earlier for counties with two or more presidentially declared flood disasters in the last ten years.

Individuals who win Shoreline Management Act permit appeals may be awarded legal and engineering costs. State agencies are required to actively seek and encourage removal of accumulated materials in rivers and streams through permit requirements. Policy should be based on designed open channel hydraulic engineering criteria.

The focus for county flood plans must include practices which avoid long-term accretion of sediments in streams, and methods must be established to stop river channel migration. Dredging of sand and gravel for navigation is not exempt from royalty payments. The Department of Transportation is required to participate in flood reduction projects based on benefits received. Flood protection projects are defined as work necessary to preserve, restore or improve natural or human-made stream banks or flood control facilities. The Departments of Fish and Wildlife, Natural Resources and Ecology are required to jointly develop memorandums of understanding to better coordinate the agencies' actions and permit the requirements. The goal of the memorandums is to minimize duplicate information and to develop a comprehensive permit process which is streamlined and easily understandable to permit applicants.

The bill contains a null and void clause.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Testimony For:** The Legislature needs to grant clear authority to counties to protect public and private property from flooding.

**Testimony Against:** Changing rivers and removing gravel will hurt fish and wildlife.

**Testified:** PRO: Rick Nelson, Cattlemen's Assn.; Erik Johnson, Public Ports; Ruth Brandal, Farm Bureau; Stan Biles, Dept. of Natural Resources; Tom Mark, Dept. of Ecology; Dave Williams, Assn. of Cities; Jan Teague, Building Industry; Dave Clark, King County engineer; Edwin Henken, Whatcom County; CON: Sylviann Frankus, League of Women Voters; Judy Turpin, Environmental Council; Ed Manary, Dept. of Fish and Wildlife, Bruce Wishart, Sierra Club.

---

## SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Second Substitute Senate Bill No. 5632 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rinehart, Chair; Loveland, Vice Chair; Bauer, Cantu, Drew, Finkbeiner, Gaspard, Hargrove, Hochstatter, Johnson, Long, McDonald, Moyer, Roach, Sheldon, Snyder, Strannigan, West and Winsley.

**Minority Report:** Do not pass.

Signed by Senators Fraser and Pelz.

**Staff:** Tracy Cox (786-7437)

**Testimony For:** None.

**Testimony Against:** Allowing any removal of gravel within the high water mark would reduce DNR gravel royalties by \$200,000.

**Testified:** Craig Partridge, DNR.

**House Amendment(s):** The House striking amendment changes the way in which the hydraulic projects are permitted. The amendment: (1) limits the department's authority to issue hydraulic permits to projects within the ordinary highwater mark; (2) allows three years, instead of two, before a hydraulic project must achieve fish habitat productivity that is equal to pre-project conditions; (3) applies the criteria for fish life only to hydraulic projects that are for flood control purposes; and (4) allows maintenance projects for flood control structures to receive hydraulic project permits that are valid for up to five years.

Two categories of flood control projects that are exempt from substantial development permits are added.

Provisions requiring that the Department of Transportation monetarily contribute to flood control projects that benefit state highways, a null and void clause, and a flood planning element requiring consideration of instream work on instream resources are deleted by the House striking amendment.