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SENATE BILL 5345

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State of Washington

58th Legislature

2003 Regular Session

By Senators Haugen, Swecker, Doumit, Morton, Rasmussen, Hargrove and Horn

Read first time 01/22/2003. Referred to Committee on Parks, Fish & Wildlife.

1 AN ACT Relating to drainage infrastructure; and amending RCW  
2 77.55.060.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 77.55.060 and 1998 c 190 s 86 are each amended to read  
5 as follows:

6 A dam or other obstruction across or in a stream shall be provided  
7 with a durable and efficient fishway approved by the director. Plans  
8 and specifications shall be provided to the department prior to the  
9 director's approval. The fishway shall be maintained in an effective  
10 condition and continuously supplied with sufficient water to freely  
11 pass fish.

12 If a person fails to construct and maintain a fishway or to remove  
13 the dam or obstruction in a manner satisfactory to the director, then  
14 within thirty days after written notice to comply has been served upon  
15 the owner, his or her agent, or the person in charge, the director may  
16 construct a fishway or remove the dam or obstruction. Expenses  
17 incurred by the department constitute the value of a lien upon the dam  
18 and upon the personal property of the person owning the dam. Notice of

1 the lien shall be filed and recorded in the office of the county  
2 auditor of the county in which the dam or obstruction is situated. The  
3 lien may be foreclosed in an action brought in the name of the state.

4 If, within thirty days after notice to construct a fishway or  
5 remove a dam or obstruction, the owner, his or her agent, or the person  
6 in charge fails to do so, the dam or obstruction is a public nuisance  
7 and the director may take possession of the dam or obstruction and  
8 destroy it. No liability shall attach for the destruction.

9 This section shall not apply to installed drainage infrastructure  
10 including dikes, drains, tide gates, pumps, drainage tiles, and  
11 drainage pipe existing as of the effective date of this section, nor to  
12 the repair, improvement, or replacement of such infrastructure, that  
13 protect land used for agricultural, residential, industrial,  
14 commercial, recreational, transportation, parking facilities, or other  
15 legal uses.

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