
**Natural Resources, Ecology &
Parks Committee**

HB 2373

Brief Description: Concerning riparian flood damages.

Sponsors: Representative Pearson.

Brief Summary of Bill

- Directs the Washington Department of Fish and Wildlife (WDFW) to give equal consideration to protection of fish life, public safety, and private property when reviewing hydraulic projects.
- Authorizes any person who suffers property damage to bring an action against the Director of the WDFW and the WDFW for flood damage if the WDFW had denied or unreasonably conditioned a permit.

Hearing Date: 1/10/06

Staff: Jeff Olsen (786-7157).

Background:

A person must obtain a hydraulic permit before beginning construction of any project that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state. Hydraulic permits are issued by the Washington Department of Fish and Wildlife (WDFW) to ensure the proper protection of fish life.

An appointed or an elected official is immune from civil liability for damages for any decision or failure to make a decision within his or her official capacity. However, liability remains on the public agency for the conduct of its officials.

Summary of Bill:

The WDFW must give equal consideration to the protection of fish life, public safety, and private property when reviewing hydraulic projects. If a project applicant is seeking approval for a project to protect property from flood damage, the WDFW must provide a written analysis of any denial or conditioning of the project.

If a person suffers flood damage and the WDFW had denied or unreasonably conditioned a hydraulic permit within the past 10 years that would have prevented or lessened the flood

damage, a person may bring an action against the WDFW and the Director of the WDFW. A person seeking an action may be awarded up to three times the value of flood damages, plus legal expenses.

The person bringing the action must prove by a preponderance of the evidence the level of flood damage, and demonstrate that the damage caused by the flood would have been prevented or lessened by the project that was denied or unreasonably conditioned. If the WDFW and the Director are found liable, both the WDFW and the Director shall be held jointly and severally liable. Any damages due must be paid from the State Wildlife Account within 30 days of final judgement.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.