
SENATE BILL 6212

State of Washington

61st Legislature

2010 Regular Session

By Senator Haugen

Read first time 01/11/10. Referred to Committee on Natural Resources,
Ocean & Recreation.

1 AN ACT Relating to permit review for small scale fish enhancement
2 projects; and amending RCW 77.55.181.

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

4 **Sec. 1.** RCW 77.55.181 and 2005 c 146 s 505 are each amended to
5 read as follows:

6 (1) In order to receive the permit review and approval process
7 created in this section, a small size and scale fish habitat
8 enhancement project must meet the criteria under (a) and (b) of this
9 subsection:

10 (a) A fish habitat enhancement project must be a project to
11 accomplish one or more of the following tasks:

12 (i) Elimination of instream human-made fish passage barriers,
13 including culvert repair and replacement;

14 (ii) Restoration of an eroded or unstable streambank employing the
15 principle of bioengineering, including limited use of rock as a
16 stabilization only at the toe of the bank, and with primary emphasis on
17 using native vegetation to control the erosive forces of flowing water;

18 ((or))

1 (iii) Placement of woody debris or other instream structures that
2 benefit naturally reproducing fish stocks; or

3 (iv) Restoration of a stream side channel or riparian wetland area
4 less than one acre in size.

5 The department shall develop size or scale threshold tests to
6 determine if projects accomplishing any of these tasks should be
7 evaluated under the process created in this section or under other
8 project review and approval processes. A project proposal shall not be
9 reviewed under the process created in this section if the department
10 determines that the scale of the project raises concerns regarding
11 public health and safety; and

12 (b) A fish habitat enhancement project must be approved in one of
13 the following ways:

14 (i) By the department pursuant to chapter 77.95 or 77.100 RCW;

15 (ii) By the sponsor of a watershed restoration plan as provided in
16 chapter 89.08 RCW;

17 (iii) By the department as a department-sponsored fish habitat
18 enhancement or restoration project;

19 (iv) Through the review and approval process for the jobs for the
20 environment program;

21 (v) Through the review and approval process for conservation
22 district-sponsored projects, where the project complies with design
23 standards established by the conservation commission through
24 interagency agreement with the United States fish and wildlife service
25 and the natural resource conservation service;

26 (vi) Through a formal grant program established by the legislature
27 or the department for fish habitat enhancement or restoration; and

28 (vii) Through other formal review and approval processes
29 established by the legislature.

30 (2) Fish habitat enhancement projects meeting the criteria of
31 subsection (1) of this section are expected to result in beneficial
32 impacts to the environment. Decisions pertaining to fish habitat
33 enhancement projects meeting the criteria of subsection (1) of this
34 section and being reviewed and approved according to the provisions of
35 this section are not subject to the requirements of RCW
36 43.21C.030(2)(c).

37 (3)(a) A permit is required for projects that meet the criteria of
38 subsection (1) of this section and are being reviewed and approved

1 under this section. An applicant shall use a joint aquatic resource
2 permit application form developed by the office of regulatory
3 assistance to apply for approval under this chapter. On the same day,
4 the applicant shall provide copies of the completed application form to
5 the department and to each appropriate local government. Local
6 governments shall accept the application as notice of the proposed
7 project. The department shall provide a fifteen-day comment period
8 during which it will receive comments regarding environmental impacts.
9 Within forty-five days, the department shall either issue a permit,
10 with or without conditions, deny approval, or make a determination that
11 the review and approval process created by this section is not
12 appropriate for the proposed project. The department shall base this
13 determination on identification during the comment period of adverse
14 impacts that cannot be mitigated by the conditioning of a permit. If
15 the department determines that the review and approval process created
16 by this section is not appropriate for the proposed project, the
17 department shall notify the applicant and the appropriate local
18 governments of its determination. The applicant may reapply for
19 approval of the project under other review and approval processes.

20 (b) Any person aggrieved by the approval, denial, conditioning, or
21 modification of a permit under this section may formally appeal the
22 decision to the board pursuant to the provisions of this chapter.

23 (4) No local government may require permits or charge fees for fish
24 habitat enhancement projects that meet the criteria of subsection (1)
25 of this section and that are reviewed and approved according to the
26 provisions of this section.

27 (5) Project approvals under this section shall not be made until
28 the department has developed and adopted rules to define the size and
29 scale thresholds for projects covered by this section.

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