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HOUSE BILL 1382

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State of Washington

67th Legislature

2021 Regular Session

By Representative Tharinger

1 AN ACT Relating to streamlining the environmental permitting  
2 process for salmon recovery projects; adding a new section to chapter  
3 77.55 RCW; creating a new section; and providing an expiration date.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that, particularly  
6 in times of economic hardship, it is in the interest of the citizens  
7 and natural resources of the state to promote and implement habitat  
8 restoration projects that have been determined to contribute to the  
9 recovery of watersheds throughout the state. The legislature further  
10 finds that habitat recovery projects that contribute to the recovery  
11 of orca, salmon, steelhead, bull trout, rock fish, and other fish  
12 species and habitat they rely on are particularly valuable. It is the  
13 legislature's intent that these projects advance to construction as  
14 quickly and efficiently as possible, thereby creating jobs and  
15 further bolstering the natural resources and natural resource economy  
16 of Washington.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 77.55  
18 RCW to read as follows:

19 (1) The habitat recovery pilot program is created.

1 (2) (a) In order to be included in this statewide pilot program  
2 and qualify for the permit review and approval process created in  
3 this section, an environmental restoration project must directly  
4 benefit freshwater, estuarine, or marine fish, or the habitat they  
5 rely on, and must be included on a list of projects reviewed,  
6 approved, or funded by one of the following restoration programs:

- 7 (i) The Bonneville power administration restoration program;
- 8 (ii) The Brian Abbott fish barrier removal board;
- 9 (iii) The estuary and salmon restoration program;
- 10 (iv) The family forest fish passage program;
- 11 (v) The floodplains by design program;
- 12 (vi) The office of the Chehalis basin aquatic species restoration  
13 program;
- 14 (vii) The office of Columbia river habitat recovery projects;
- 15 (viii) The Puget Sound acquisition and restoration fund;
- 16 (ix) The Puget Sound national estuary program;
- 17 (x) The salmon recovery funding board;
- 18 (xi) The Washington coast restoration and resiliency initiative;
- 19 and
- 20 (xii) The Yakima tributary access and habitat program.

21 (b) A project application reviewed under this section must  
22 document consistency with local, state, and federal flood risk  
23 reduction requirements. A project may not be reviewed under the  
24 process created in this section if the local government in which the  
25 project will be located determines that the project does not meet  
26 applicable flood risk reduction requirements, or otherwise determines  
27 that the project raises concerns regarding public health and safety,  
28 and the local government provides timely notice of its determination  
29 to the department.

30 (3) Fish recovery and fish habitat restoration projects meeting  
31 the criteria of subsection (2) of this section are expected to result  
32 in beneficial impacts to the aquatic environment. Projects approved  
33 for inclusion in this pilot program and that are reviewed and  
34 approved according to the provisions of this section are not subject  
35 to the requirements of RCW 43.21C.030(2) and are not required to  
36 obtain local or state permits or approvals other than the permit  
37 issued under this section, except permits minimally necessary as a  
38 requirement of participation in a federal program.

39 (4) (a) A permit under this chapter is required for projects that  
40 meet the criteria of subsection (2) of this section and must be

1 reviewed and, if appropriate, approved under this section. An  
2 applicant shall use the department's online permitting system to  
3 apply for approval under this chapter and shall at the same time  
4 provide a copy of the application to the local government within  
5 whose geographical jurisdiction the project will be located and to  
6 the members of the multiagency permitting team created in this  
7 section.

8 (b) When the department concludes that a complete application has  
9 been submitted under this section and copies of the application have  
10 been provided as required in this section, the department shall  
11 provide notice to the local government within whose geographical  
12 jurisdiction the project will be located, to interested tribes, and  
13 to the members of the multiagency permitting team of receipt of a  
14 complete permit application.

15 (i) Unless the consultation process described in this section is  
16 invoked, the department shall evaluate and make a decision on the  
17 application not sooner than 15 days, and not later than 45 days,  
18 after receipt of a complete permit application.

19 (ii) If the local government within whose geographical  
20 jurisdiction the project would be located, or any member of the  
21 multiagency permitting team, requests consultation within 15 days of  
22 receiving a copy of the complete project application, the department  
23 shall place the application on hold and immediately convene a meeting  
24 of the multiagency permitting team and the appropriate local  
25 government to review and evaluate the project.

26 (iii) All parties involved in this review process shall work in  
27 good faith to expedite permitting and any party with concerns shall  
28 provide the basis for its concerns and potential pathways to address  
29 those concerns. Any party objecting to expedited permitting shall  
30 provide a written basis for its objections to the department or the  
31 multiagency permitting team.

32 (iv) The consultation process may not exceed 45 days from the  
33 request for consultation.

34 (c) The multiagency permitting team consists of representatives  
35 of the local government in whose geographical jurisdiction the  
36 project would be located, the department of fish and wildlife, the  
37 department of ecology, the recreation and conservation office, the  
38 governor's salmon recovery office, the office of archaeology and  
39 historic preservation, the department of natural resources, and, when  
40 the project in question is located in the Puget Sound basin, the

1 Puget Sound partnership. For projects located in the Puget Sound  
2 basin, meetings of the multiagency permitting team shall be  
3 facilitated by the Puget Sound partnership. All other meetings of the  
4 multiagency permitting team must be facilitated by the recreation and  
5 conservation office.

6 (d) The department or, where applicable, the multiagency  
7 permitting team, shall exclude any project from the review and  
8 approval process created by this section if it concludes that the  
9 project may adversely impact human health, public safety, or the  
10 environment. Permitting decisions over forest practices hydraulic  
11 approvals must be made consistent with chapter 76.09 RCW.

12 (e) If the department or the multiagency permitting team  
13 determines that the review and approval process created by this  
14 section is not appropriate for the proposed project, the department  
15 shall notify the applicant and the appropriate local government of  
16 its determination. The applicant may reapply for approval of the  
17 project under generally applicable review and approval processes. If  
18 the multiagency permitting team determines that the review and  
19 approval process created by this section is appropriate for the  
20 proposed project, the hold on the application must be lifted and the  
21 department shall make a decision within the time that remains of the  
22 original 45-day decision deadline.

23 (f) Any person aggrieved by the approval, denial, conditioning,  
24 or modification of a permit, other than a family forest fish passage  
25 program hydraulic project, under this section may appeal the decision  
26 as provided in RCW 77.55.021(8). Appeals of a forest practices  
27 hydraulic project may be made as provided in chapter 76.09 RCW.

28 (g) The department shall, in a timely manner, provide a copy of  
29 any application seeking review under this section and shall  
30 thereafter coordinate with interested tribes as it implements this  
31 section.

32 (5) No local or state government may require permits or charge  
33 fees other than the permit issued under this section, except permits  
34 minimally necessary as a requirement of participation in a federal  
35 program, for fish recovery pilot projects that meet the criteria of  
36 subsection (2) of this section and that are reviewed and approved  
37 according to the provisions of this section.

38 (6) No civil liability may be imposed by any court on the state  
39 or its officers and employees for any adverse impacts resulting from  
40 a fish recovery stimulus pilot project permitted by the department or

1 the department of natural resources under the criteria of this  
2 section except upon proof of gross negligence or willful or wanton  
3 misconduct.

4 (7) This section expires June 30, 2025.

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