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**SUBSTITUTE HOUSE BILL 1382**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** House Rural Development, Agriculture & Natural Resources  
(originally sponsored by Representatives Tharinger, Dolan,  
Fitzgibbon, Wylie, Hackney, and Callan)

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; adding a new section go chapter 43.21C RCW; creating a new  
4 section; and providing expiration dates.

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

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

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

20 (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 floodplains by design program;
- 11 (v) The office of Chehalis basin aquatic species restoration  
12 program;
- 13 (vi) The office of Columbia river habitat recovery projects;
- 14 (vii) The Puget Sound acquisition and restoration fund;
- 15 (viii) The Puget Sound national estuary program;
- 16 (ix) The salmon recovery funding board;
- 17 (x) The Washington coast restoration and resiliency initiative;
- 18 (xi) The Yakima tributary access and habitat program;
- 19 (xii) Fish recovery projects sponsored by an Indian tribe; and
- 20 (xiii) Fish acclimation facility projects sponsored or operated  
21 by an Indian tribe.

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

31 (c) (i) With regard to cultural resources, a project applicant or  
32 funding agency must review the project with the department of  
33 archaeology and historic preservation and complete any required site  
34 surveys before the project applicant files an application under this  
35 section. A project applicant must document consistency in the  
36 application with applicable cultural resource protection  
37 requirements.

38 (ii) A project applicant must provide a copy of its application  
39 to the department of archaeology and historic preservation, and to

1 affected Indian tribes, no fewer than 60 days before the application  
2 may be filed with the department.

3 (iii) The department may not review a project under the expedited  
4 process created in this section if a cultural resource site is  
5 identified at the project site or if an affected Indian tribe  
6 withholds its consent that the project should be expedited according  
7 to the process set forth in this section. Such consent may be  
8 withheld upon a determination that the project may adversely impact  
9 cultural resources. Notice of such a determination must be provided  
10 to the department by the affected Indian tribe in a timely manner.

11 (iv) In the event of an inadvertent discovery of cultural  
12 resources or human remains, the project applicant shall immediately  
13 notify the department, the department of archaeology and historic  
14 preservation, and affected Indian tribes. In the event of an  
15 inadvertent discovery of cultural resources or human remains,  
16 existing requirements applicable to inadvertent discoveries of  
17 cultural resources and human remains, including those set forth in  
18 chapters 27.53, 27.44, and 68.60 RCW, apply.

19 (d) For those projects that require a lease or other land use  
20 authorization from the department of natural resources, the project  
21 applicant must include in its application for a permit under this  
22 section a signed joint aquatic resources permit application,  
23 attachment E. The project applicant must provide a copy of a  
24 completed application to the department of natural resources no fewer  
25 than 30 days before the application may be filed with the department.  
26 The department of natural resources must make a final decision on  
27 applications for projects under this section within 30 days of the  
28 issuance of a permit under this section.

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

38 (4) (a) A permit under this chapter is required for projects that  
39 meet the criteria of subsection (2) of this section and must be  
40 reviewed and, if appropriate, approved under this section. An

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

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

14 (i) Unless the multiagency permitting team process described in  
15 this section is invoked, the department shall evaluate and make a  
16 decision on the application not sooner than 25 days, and not later  
17 than 45 days, after receipt of a complete permit application.

18 (ii) Within 25 days of receiving a copy of the complete project  
19 application, the local government within whose geographical  
20 jurisdiction the project would be located, any member of the  
21 multiagency permitting team, or a potentially affected Indian tribe  
22 may request that the department place the application on hold and  
23 immediately convene a meeting with the requesting entity and the  
24 multiagency permitting team to review and evaluate the project.

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

31 (iv) The multiagency review process may not exceed 45 days from  
32 the request for review.

33 (c) The multiagency permitting team consists of representatives  
34 of the local government in whose geographical jurisdiction the  
35 project would be located, the department, the department of ecology,  
36 the recreation and conservation office, the governor's salmon  
37 recovery office, the department of natural resources, and, when the  
38 project in question is located in the Puget Sound basin, the Puget  
39 Sound partnership. For projects located in the Puget Sound basin,  
40 meetings of the multiagency permitting team must be facilitated by

1 the Puget Sound partnership. All other meetings of the multiagency  
2 permitting team must be facilitated by the recreation and  
3 conservation office.

4 (d) The department or, where applicable, the multiagency  
5 permitting team, shall exclude any project from the review and  
6 approval process created by this section if it concludes that the  
7 project may adversely impact human health, public safety, or the  
8 environment, or that the project's scope or complexity renders it  
9 inappropriate for expedited review.

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

22 (f) Any person aggrieved by the approval, denial, conditioning,  
23 or modification of a permit under this section may appeal the  
24 decision as provided in RCW 77.55.021(8).

25 (g) The department shall, in a timely manner, provide a copy of  
26 any application seeking review under this section and shall  
27 thereafter coordinate with affected Indian tribes as it implements  
28 this section.

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

35 (6) No civil liability may be imposed by any court on the state  
36 or its officers and employees for any adverse impacts resulting from  
37 a fish recovery stimulus pilot project permitted by the department  
38 under the criteria of this section except upon proof of gross  
39 negligence or willful or wanton misconduct.

1           (7) For the purposes of this section, "Indian tribe" has the same  
2 meaning as defined in RCW 43.376.010.

3           (8) This section expires June 30, 2025.

4           NEW SECTION.   **Sec. 3.** A new section is added to chapter 43.21C  
5 RCW to read as follows:

6           (1) A project that receives a permit pursuant to section 2 of  
7 this act is not subject to the requirements of RCW 43.21C.030(2).

8           (2) This section expires June 30, 2025.

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