

CERTIFICATION OF ENROLLMENT
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1382

67th Legislature
2021 Regular Session

Passed by the House March 2, 2021
Yeas 95 Nays 2

**Speaker of the House of
Representatives**

Passed by the Senate April 7, 2021
Yeas 49 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1382** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1382

Passed Legislature - 2021 Regular Session

State of Washington

67th Legislature

2021 Regular Session

By House Appropriations (originally sponsored by Representatives Tharinger, Dolan, Fitzgibbon, Wylie, Hackney, and Callan)

READ FIRST TIME 02/22/21.

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 new
4 sections; 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 a federally recognized
20 tribe; and
- 21 (xiii) Fish acclimation facility projects sponsored or operated
22 by a federally recognized tribe.

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

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

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

1 affected federally recognized tribes, no fewer than 60 days before
2 the application 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 federally recognized
6 tribe withholds its consent that the project should be expedited
7 according to the process set forth in this section. Such consent may
8 be withheld upon a determination that the project may adversely
9 impact cultural resources. Notice of such a determination must be
10 provided to the department by the affected federally recognized tribe
11 in a timely manner.

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

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

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 section 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, to the
6 members of the multiagency permitting team created in this section,
7 and to potentially affected federally recognized tribes.

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 potentially affected
13 federally recognized tribes, and to the members of the multiagency
14 permitting team of receipt of a complete permit application.

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

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

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

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

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

1 Sound partnership. For projects located in the Puget Sound basin,
2 meetings of the multiagency permitting team must be facilitated by
3 the Puget Sound partnership. All other meetings of the multiagency
4 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, or that the project's scope or complexity renders it
11 inappropriate for expedited review.

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, the appropriate local government, and
16 potentially affected federally recognized tribes of its
17 determination. The applicant may reapply for approval of the project
18 under generally applicable review and approval processes. If the
19 multiagency permitting team determines that the review and approval
20 process created by this section is appropriate for the proposed
21 project, the hold on the application must be lifted and the
22 department shall make a decision within the time that remains of the
23 original 45-day decision deadline.

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

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

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

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

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

3 (7) 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.

9 NEW SECTION. **Sec. 4.** If specific funding for the purposes of
10 this act, referencing this act by bill or chapter number, is not
11 provided by June 30, 2021, in the omnibus appropriations act, this
12 act is null and void.

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