

FINAL BILL REPORT

ESSB 5411

PARTIAL VETO

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SYNOPSIS AS ENACTED

Brief Description: Making changes relating to flood damage.

SPONSORS: Senate Committee on Agriculture & Water Resources (originally sponsored by Senators Bailey, Anderson, Hansen, Barr, McMullen, Conner and Skratek).

SENATE COMMITTEE ON AGRICULTURE & WATER RESOURCES

HOUSE COMMITTEE ON NATURAL RESOURCES & PARKS

BACKGROUND:

The protection of public health and safety is a fundamental duty of government. The people of Washington that live near rivers must take measures necessary to protect themselves from the dangers associated with flooding. In recognition of this need, the legislature has passed a number of laws authorizing various flood protection activities. But, concern has been raised that these protections are inadequate due in part to the lack of a coordinated state flood control policy which often makes it difficult to obtain the necessary permits. For example, flood protection projects often require permits under statutes which do not include flood control among their goals or considerations.

Nineteen counties were declared federal disaster areas following flooding in November which resulted in millions of dollars in damages. Many counties, such as King, Pierce, Thurston, Grays Harbor, and Lewis have been declared federal disaster areas seven or eight times since 1978.

SUMMARY:

Counties may adopt a comprehensive flood control management plan for any drainage basin located wholly or partially within the county. The plan is mandatory throughout the basin. Those portions of the plan relating to land use restrictions and construction standards are minimum standards that a city or town may exceed.

The plan must include: designation of areas susceptible to flooding; a comprehensive scheme of flood control improvements; land use regulations precluding the location of structures in the floodway; construction restrictions within the floodway; and restrictions on land clearing activities which exacerbate flood problems. Land clearing activities do not include forest practices.

A comprehensive scheme of flood control improvements must: determine the need for, and location of, flood control improvements based on a

cost/benefit analysis; establish a level of permissible flood protection for flood control improvements; identify alternatives to in-stream flood control work; target areas where flood waters could be directed during a flood to avoid damage to structures; and identify a source of revenue for the scheme and the improvements.

Counties may establish advisory committees to participate in the preparation of a comprehensive flood control management plan and provide general advice on flood problems.

A Joint Select Committee on Flood Damage Reduction is created composed of: four members of the Senate; four members of the House of Representatives; and eight non-legislators selected by the President of the Senate and the Speaker of the House of Representatives. The committee may seek assistance from appropriate federal agencies, including the U.S. Army Corps of Engineers.

The committee is to consider the development of comprehensive state flood policies and a coordinated flood damage reduction plan which includes the following elements: structural and nonstructural flood control projects; forest practice effects on watershed hydraulics; growth management and land uses; storm water runoff and accompanying liabilities; analysis of permitting requirements; emergency work and coordination; disclosure of flood hazard to purchasers and renters of flood-prone property; the role of dredging in flood control; the role of dikes and levees in flood control; criteria for evaluating and approving local plans and projects funded by grants from the flood control assistance account; and public acquisition of properties to reduce flood damage.

The committee shall report its preliminary findings to the Legislature by December 31, 1991 and make a final report by December 1, 1992.

The Department of Community Development shall coordinate state permits in times of emergency.

A procedure is established for coordinating required permits for projects to repair damage caused by recent flooding. The procedure will be tested in a pilot program involving various types of flood control projects.

The Department of Ecology and local governments shall include consideration of state flood control policy as an element of Shorelines Management Act master programs.

Flood control assistance account funds may be used to develop comprehensive flood control management plans, to study cost-sharing

feasibility, to finance pilot projects, and to enhance flood control facilities. Grants from the flood control account may be made to a local government only if in the opinion of the Department of Ecology, the local government is making a good faith effort to take advantage of, or conform with, federal and state flood control programs.

Flood control zone district laws are altered so that cities and towns cannot opt out of a newly created flood control zone district. Flood control zone districts may not overlap. Revenue bonds may be issued to finance any flood control improvement or storm water control improvement.

Persons may seek review via the Pollution Control Hearings Board for Department of Ecology actions pursuant to the Flood Plain Management Act.

Within 30 days of application, the Department of Fisheries and the Department of Wildlife shall process hydraulic project applications for the repair of legally constructed dikes, seawalls, and other flood control structures damaged by recent floods.

Whenever the placement of woody debris in a watercourse is required as a condition for a Hydraulics Management Act permit, the Department of Fisheries and the Department of Wildlife shall invite comment from the local government, affected tribal governments, affected state and federal agencies, and the project applicant.

The Department of Fisheries, the Department of Wildlife, and the Department of Ecology will work cooperatively with the U.S. Army Corps of Engineers to develop a memorandum of understanding regarding dike vegetation guidelines to ensure dike owners can qualify for federal assistance to repair and maintain their dikes and to ensure state policy requirements are met.

Local governments which have adopted flood plain management ordinances shall include provisions for livestock flood sanctuary areas within the requirements of the national flood insurance program.

The Department of Fisheries, the Department of Wildlife, the Department of Ecology, and the Department of Natural Resources shall jointly develop an informational brochure regarding the permitting process for flood control projects.

The Department of Natural Resources is allowed to make gravel removed from rivers available free of charge for public purposes. Gravel to be used for other purposes may be sold by sealed bid or public auction.

The state is allowed to share in the costs of flood control projects benefitting state highways whether or not the project is on a state right of way.

VOTES ON FINAL PASSAGE:

Senate 38 7

House 98 0 (House amended)

Senate (Senate refused to concur)

House 98 0 (House amended)

Senate 41 3 (Senate concurred)

EFFECTIVE: July 28, 1991

Partial Veto Summary: Language authorizing the Department of Natural Resources to make gravel removed from rivers available free of charge for public purposes was vetoed because the same provision was adopted in SHB 1864. (See VETO MESSAGE)