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**BILL REQUEST - CODE REVISER'S OFFICE**

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BILL REQ. #: Z-0445.2/24 2nd draft

ATTY/TYPIST: ML:eab

BRIEF DESCRIPTION: Creating a dredge and fill permit program and providing authority for a fee structure to support the program.

1 AN ACT Relating to creating a dredge and fill permit program and  
2 providing authority for a fee structure to support the program;  
3 reenacting and amending RCW 43.21B.110; adding new sections to  
4 chapter 43.21A RCW; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the United  
7 States supreme court issued the Sackett v. Environmental Protection  
8 Agency ruling in May 2023 narrowing the definition of waters of the  
9 United States to exclude many wetlands and other waters from  
10 regulation under the federal clean water act. These waterbodies are  
11 still protected under the state water pollution control act. The  
12 Washington state department of ecology is obligated to review and,  
13 where appropriate, provide an authorization for projects that propose  
14 to work in these and other waters of the state. To address the  
15 requirement to protect all state waters, the legislature finds there  
16 is a need to develop and implement a dredge and fill permit program  
17 that provides a streamlined process for state review and regulation  
18 of nonfederally regulated proposals with the potential to impact  
19 state waters.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 43.21A  
2    RCW to read as follows:

3        (1)    The department must implement a dredge and fill permit  
4    program and establish a fee to collect expenses for issuing and  
5    administering the program. In implementing the permit program, the  
6    department is directed to consider options for streamlining the  
7    permit process, including the development of general permits for  
8    common project types such as restoration projects, culvert  
9    replacement, and maintenance.

10       (2)    An initial fee schedule must be adopted by rule and may be  
11    adjusted no more often than once every two years. Fees charged must  
12    be based on factors relating to the complexity of permit issuance.

13       NEW SECTION.    **Sec. 3.**    A new section is added to chapter 43.21A  
14    RCW to read as follows:

15       The dredge and fill permit fee account is created in the state  
16    treasury. All receipts from the department of ecology dredge and fill  
17    permit must be deposited into the account. Moneys in the account may  
18    be spent only after appropriation. Expenditures from the account may  
19    be used only for costs to administer the dredge and fill permit  
20    program.

21       **Sec. 4.**    RCW 43.21B.110 and 2023 c 455 s 5, 2023 c 434 s 20, 2023  
22    c 344 s 5, and 2023 c 135 s 6 are each reenacted and amended to read  
23    as follows:

24       (1)    The hearings board shall only have jurisdiction to hear and  
25    decide appeals from the following decisions of the department, the  
26    director, local conservation districts, the air pollution control  
27    boards or authorities as established pursuant to chapter 70A.15 RCW,  
28    local health departments, the department of natural resources, the  
29    department of fish and wildlife, the parks and recreation commission,  
30    and authorized public entities described in chapter 79.100 RCW:

31       (a)    Civil penalties imposed pursuant to RCW 18.104.155,  
32    70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,  
33    70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,  
34    70A.245.130, 70A.245.140, 70A.65.200, 70A.455.090, 70A.550.030,  
35    70A.555.110, 70A.560.020, 76.09.170, 77.55.440, 78.44.250, 88.46.090,  
36    90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

37       (b)    Orders issued pursuant to RCW 18.104.043, 18.104.060,  
38    43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,

1 70A.245.020, 70A.65.200, 70A.555.110, 70A.560.020, 86.16.020,  
2 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

3 (c) Except as provided in RCW 90.03.210(2), the issuance,  
4 modification, or termination of any permit, certificate, or license  
5 by the department or any air authority in the exercise of its  
6 jurisdiction, including the issuance or termination of a waste  
7 disposal permit or dredge and fill permit, the denial of an  
8 application for a waste disposal permit or dredge and fill permit,  
9 the modification of the conditions or the terms of a waste disposal  
10 permit or dredge and fill permit, or a decision to approve or deny an  
11 application for a solid waste permit exemption under RCW 70A.205.260.

12 (d) Decisions of local health departments regarding the grant or  
13 denial of solid waste permits pursuant to chapter 70A.205 RCW.

14 (e) Decisions of local health departments regarding the issuance  
15 and enforcement of permits to use or dispose of biosolids under RCW  
16 70A.226.090.

17 (f) Decisions of the department regarding waste-derived  
18 fertilizer or micronutrient fertilizer under RCW 15.54.820, and  
19 decisions of the department regarding waste-derived soil amendments  
20 under RCW 70A.205.145.

21 (g) Decisions of local conservation districts related to the  
22 denial of approval or denial of certification of a dairy nutrient  
23 management plan; conditions contained in a plan; application of any  
24 dairy nutrient management practices, standards, methods, and  
25 technologies to a particular dairy farm; and failure to adhere to the  
26 plan review and approval timelines in RCW 90.64.026.

27 (h) Any other decision by the department or an air authority  
28 which pursuant to law must be decided as an adjudicative proceeding  
29 under chapter 34.05 RCW.

30 (i) Decisions of the department of natural resources, the  
31 department of fish and wildlife, and the department that are  
32 reviewable under chapter 76.09 RCW, and the department of natural  
33 resources' appeals of county, city, or town objections under RCW  
34 76.09.050(7).

35 (j) Forest health hazard orders issued by the commissioner of  
36 public lands under RCW 76.06.180.

37 (k) Decisions of the department of fish and wildlife to issue,  
38 deny, condition, or modify a hydraulic project approval permit under  
39 chapter 77.55 RCW, to issue a stop work order, to issue a notice to

1 comply, to issue a civil penalty, or to issue a notice of intent to  
2 disapprove applications.

3 (l) Decisions of the department of natural resources that are  
4 reviewable under RCW 78.44.270.

5 (m) Decisions of an authorized public entity under RCW 79.100.010  
6 to take temporary possession or custody of a vessel or to contest the  
7 amount of reimbursement owed that are reviewable by the hearings  
8 board under RCW 79.100.120.

9 (n) Decisions of the department of ecology that are appealable  
10 under RCW 70A.245.020 to set recycled minimum postconsumer content  
11 for covered products or to temporarily exclude types of covered  
12 products in plastic containers from minimum postconsumer recycled  
13 content requirements.

14 (o) Orders by the department of ecology under RCW 70A.455.080.

15 (2) The following hearings shall not be conducted by the hearings  
16 board:

17 (a) Hearings required by law to be conducted by the shorelines  
18 hearings board pursuant to chapter 90.58 RCW.

19 (b) Hearings conducted by the department pursuant to RCW  
20 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,  
21 70A.15.3110, and 90.44.180.

22 (c) Appeals of decisions by the department under RCW 90.03.110  
23 and 90.44.220.

24 (d) Hearings conducted by the department to adopt, modify, or  
25 repeal rules.

26 (3) Review of rules and regulations adopted by the hearings board  
27 shall be subject to review in accordance with the provisions of the  
28 administrative procedure act, chapter 34.05 RCW.

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