

Senate Bill 360

Sponsored by Senator JOHNSON (at the request of City of Astoria) (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Creates whole or partial exemption from additional requirements for fish screens, by-pass devices or fish passages for hydroelectric projects proposed for construction in preexisting artificial delivery systems partially or entirely within Astoria city limits or partially or entirely on property owned in whole or in part by City of Astoria.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to fish supportive measures for hydroelectric projects located in artificial delivery systems;
3 and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** (1) Notwithstanding ORS 509.585 (4) and (6), a person who owns or operates
6 an existing artificial delivery system that is partially or entirely within the city limits of
7 Astoria or partially or entirely on property that is owned in whole or in part by the City of
8 Astoria may obtain department approval for a hydroelectric project described in subsection
9 (2) of this section without submitting a proposal for fish passage to the State Department
10 of Fish and Wildlife and without applying for a waiver under ORS 509.585 (7). The person may
11 construct and operate a hydroelectric project described in subsection (2) of this section using
12 the same fish passage facilities or alternatives that would apply to the artificial delivery
13 system if the hydroelectric project did not exist.

14 (2) Notwithstanding ORS 543.765 (5)(a), except as provided in subsection (5) of this sec-
15 tion, a certificate issued under ORS 543.765 for a proposed hydroelectric project may not
16 require the installation of fish screens, by-pass devices and fish passages if the project, as
17 described in the application:

18 (a) Is to be located in a preexisting artificial delivery system that is partially or entirely
19 within the city limits of Astoria or partially or entirely on property that is owned in whole
20 or in part by the City of Astoria; and

21 (b) Will not create a change in stream conditions that adversely affects fish at the point
22 of the diversion for the artificial delivery system.

23 (3) For a hydroelectric project described in subsection (4) of this section, the terms and
24 conditions of a final order under ORS 509.585 (6) may not impose fish screen, by-pass device
25 or fish passage requirements that exceed the limitation on fish screen, by-pass device and
26 fish passage requirements described in subsection (4) of this section for a hydroelectric cer-
27 tificate issued under ORS 543.765.

28 (4)(a) Notwithstanding ORS 543.765 (5)(a), except as provided in subsection (5) of this
29 section, a certificate issued under ORS 543.765 for a proposed hydroelectric project may re-
30 quire the installation of fish screens, by-pass devices and fish passages as provided in para-

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 **graph (b) of this subsection if the project, as described in the application:**

2 **(A) Is to be located in a preexisting artificial delivery system that is partially or entirely**
3 **within the city limits of Astoria or partially or entirely on property that is owned in whole**
4 **or in part by the City of Astoria; and**

5 **(B) Will create a change in stream conditions that adversely affects fish at the point of**
6 **diversion for the artificial delivery system.**

7 **(b) A certificate issued under ORS 543.765 may require the installation of fish screens,**
8 **by-pass devices and fish passages at a proposed hydroelectric project described in paragraph**
9 **(a) of this subsection only to the extent necessary to offset the adverse effect at the point**
10 **of diversion for the artificial delivery system that will directly result from the hydroelectric**
11 **project**

12 **(5) Subsections (2) and (4) of this section do not cancel or reduce any requirement re-**
13 **garding fish screens, by-pass devices or fish passages that would apply to a point of diversion**
14 **or artificial delivery system in the absence of a hydroelectric project.**

15 **SECTION 2. Section 1 of this 2013 Act applies to hydroelectric projects for which an ap-**
16 **plication for a hydroelectric certificate under ORS 543.765 is filed with the Water Resources**
17 **Department on or after the effective date of this 2013 Act.**

18 **SECTION 3. This 2013 Act being necessary for the immediate preservation of the public**
19 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
20 **on its passage.**

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