

# SENATE BILL REPORT

## SB 5313

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As Reported By Senate Committee On:  
Transportation, March 4, 1997  
Ways & Means, March 10, 1997

**Title:** An act relating to environmental mitigation of transportation projects.

**Brief Description:** Establishing the advanced environmental mitigation revolving fund.

**Sponsors:** Senators Wood, Haugen and Prince; by request of Department of Transportation.

**Brief History:**

**Committee Activity:** Transportation: 1/29/97, 3/4/97 [DPS, DNP].  
Ways & Means: 3/7/97, 3/10/97 [DP2S]

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### SENATE COMMITTEE ON TRANSPORTATION

**Majority Report:** That Substitute Senate Bill No. 5313 be substituted therefor, and the substitute bill do pass.

Signed by Senators Prince, Chair; Wood, Vice Chair; Goings, Haugen, Horn, Jacobsen, Morton, Oke, Prentice, Rasmussen and Sellar.

**Minority Report:** Do not pass.

Signed by Senators Heavey and Patterson.

**Staff:** Jennifer Joly (786-7305)

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Second Substitute Senate Bill No. 5313 be substituted therefor, and the second substitute bill do pass.

Signed by Senators West, Chair; Strannigan, Vice Chair; Bauer, Brown, Fraser, Kohl, Long, Loveland, McDonald, Roach, Rossi, Sheldon, Snyder, Swecker, Thibaudeau and Winsley.

**Staff:** Steve Jones (786-7440)

**Background:** During the design and construction of Department of Transportation (DOT) projects, efforts are made to avoid or minimize adverse impacts on the environment. When adverse impacts are unavoidable, they are mitigated during transportation project construction, within the project's boundaries (i.e., on-site). For example, when a transportation project requires the filling of a wetland, a new wetland is constructed.

Many times, on-site conditions are not favorable for effective mitigation, particularly when transportation project timelines fail to allow for ideal site selection or development.

However, other off-site locations within the watershed may be more suitable or preferable for mitigation. A watershed approach— to environmental mitigation, which allows selection of sites within an entire water resource inventory area where a particular transportation project is located, promotes enhanced, off-site mitigation.

Opportunities to share mitigation sites with other jurisdictions are lost since environmental mitigation is tied directly to project funds. Development of prospective, cost-effective, multi-jurisdictional environmental facilities is not possible when funds are appropriated for specific projects.

Where feasible, the DOT seeks to finance the acquisition and development of environmental mitigation sites prior to construction of specific transportation projects. To that end, DOT seeks to establish an advanced environmental mitigation revolving fund, patterned after DOT's right-of-way revolving account. Using this fund, environmental mitigation sites, needed in the foreseeable future, would be purchased and developed with monies from the revolving fund. Then, when construction of a transportation project requiring use of the mitigation site begins, the fund would be replenished using dollars appropriated for the subject project.

**Summary of Second Substitute Bill:** The environmental mitigation revolving fund, which is not tied to programmed transportation projects, is created to finance the acquisition and development of environmental mitigation sites in advance of transportation project design and construction. To qualify for advanced environmental mitigation, DOT projects must be approved by the Transportation Commission as part of the state's six-year plan or be included in the state highway system plan. The fund retains 80 percent of its interest earnings.

Advanced environmental mitigation, including the acquisition and development of mitigation sites, may be conducted in partnership with federal, state, or local government agencies, tribal governments, interest groups, or private parties.

When DOT, or any of its transportation partners, proceeds with the construction of a transportation project that will use an advanced environmental mitigation site, the advanced environmental mitigation revolving fund must be reimbursed with monies appropriated for the use of the site.

Every two years, DOT must report to the Legislative Transportation Committee and the Office of Financial Management regarding: (1) which advanced environmental mitigation sites were purchased and why; (2) what expenditures were made for the parcels; and (3) estimated savings.

**Second Substitute Bill Compared to Substitute Bill:** The retention of interest earnings is modified.

**Substitute Bill Compared to Original Bill:** The watershed approach is based on a water resource inventory area. Reimbursement of the advanced environmental mitigation revolving account for administrative costs is for actual costs incurred, rather than 5 percent.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Establishment of the advanced environmental mitigation revolving account will permit DOT to save money by (1) permitting DOT to partner with other jurisdictions to establish mutually beneficial mitigation sites; (2) reducing mitigation ratios because of the maturity of the sites; and (3) reducing land costs by allowing DOT to shop for ideal mitigation sites and avoid using its power of eminent domain. Additionally, the account will allow DOT to create a more predictable process. The account could be used for many types of environmental mitigation, including wetland banking, storm water facilities, and hazardous waste cleanup.

**Testimony Against:** This bill fails to reference the sequencing approach to mitigation; for example, prior to mitigation, DOT should seek to avoid impacting the environment. The bill fails to establish long-term monitoring mechanisms for the mitigation sites, and it does not delineate specific performance standards.

**Testified:** Senator Wood, prime sponsor; Jerry Alb, WSDOT (pro); Rico Baroga, WSDOT (pro); Laura Hitchcock, Sierra Club (con).