

SENATE BILL REPORT

E2SHB 1893

As Reported By Senate Committee On:
Environmental Quality & Water Resources, April 2, 1999
Ways & Means, April 5, 1999

Title: An act relating to streamlining state and local permit issuance.

Brief Description: Streamlining state and local permit issuance.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Doumit, Mulliken, Scott, Linville and Hatfield).

Brief History:

Committee Activity: Environmental Quality & Water Resources: 3/25/99, 4/2/99 [DPA-WM, DNP].

Ways & Means: 4/5/99 [DPA (EQWR)].

SENATE COMMITTEE ON ENVIRONMENTAL QUALITY & WATER RESOURCES

Majority Report: Do pass as amended and be referred to Committee on Ways & Means. Signed by Senators Fraser, Chair; Eide, Vice Chair; Jacobsen, Morton and Swecker.

Minority Report: Do not pass. Signed by Senator Honeyford.

Staff: Richard Ramsey (786-7412)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended by Committee on Environmental Quality & Water Resources.

Signed by Senators Loveland, Chair; Bauer, Vice Chair; Brown, Vice Chair; Fairley, Fraser, Kline, Kohl-Welles, Long, McDonald, Rasmussen, B. Sheldon, Snyder, Spanel, West, Winsley and Wojahn.

Staff: Kari Guy (786-7437)

Background: A number of state laws allow or require counties and cities to establish land use regulations or control land use activities. State and local governments are both involved in some permitting decisions related to certain development proposals.

Growth Management Act. The Growth Management Act specifies numerous planning goals, imposes requirements on all jurisdictions and includes specific requirements for counties and cities planning under the act.

Local Project Review. Counties and cities may provide for administrative review of preliminary plats without a public hearing if statutory procedural notice and comment periods are satisfied and if the local government allows a public hearing upon request.

The State Environmental Policy Act (SEPA) requires local governments and state agencies to prepare an environmental impact statement (EIS) if an action may have a significant, adverse impact on the environment. The determination whether an EIS must be prepared involves a threshold determination and use of an environmental checklist.

Permit Assistance Center. The Permit Assistance Center was established within the Department of Ecology (DOE) by the Legislature in 1995 to provide assistance to businesses and public agencies in complying with the state's environmental quality laws. The center functions as a clearinghouse for information on environmental permits and, when requested, may function in a coordination role for specific projects. The 1995 legislation provided for sunset of the center on June 30, 1999.

In a sunset review of the center, the Joint Legislative Audit and Review Committee: (1) found that DOE had complied with the Legislature's intent in establishing the center and in implementing the coordinated permit process; (2) made recommendations for improving the center's efficiency and effectiveness including modifying the center's reporting requirements; and (3) recommended reauthorizing the center.

State Permits

Department of Ecology. The federal Clean Water Act (CWA) regulates the discharge of pollutants into United States waters and requires a National Pollutant Discharge Elimination System (NPDES) permit for pollutant discharges. EPA has delegated authority to the state (DOE) to administer the NPDES program. The CWA and implementing regulations require new applicants to submit an application at least 180 days prior to the proposed discharge date. The CWA does not allow the default issuance of permits.

State water pollution statutes give DOE authority to control and prevent pollution within the waters of the state. DOE may issue permits for the discharge of wastes to land or to publicly owned treatment works and may delegate certain permit authority to local governments. DOE is required to approve or deny discharge permit applications from upland hatchery and marine net pen facilities within 180 days from the date of application with certain exceptions. If DOE fails to issue a decision on certain state water quality permits within 60 days of application, a temporary permit is deemed to have issued until DOE takes action on the application.

Department of Fish and Wildlife. The Department of Fish and Wildlife (DFW) issues hydraulic permits for construction projects in state waters. With certain exceptions, DFW is required by statute to issue decisions for hydraulic permit applications within 45 days after receiving a complete application and notice of compliance with any applicable SEPA requirements.

Department of Natural Resources. The Department of Natural Resources (DNR) issues forest practices and surface mining permits to provide site-specific protection of public resources.

Department of Transportation. Department of Transportation (DOT) construction projects require permits from local, state and federal agencies. In order to avoid the cost of individual project permit approvals under the Endangered Species Act, the DOT is seeking approval of its statewide program of projects from National Marine Fisheries Service, U.S. Fish and Wildlife Service, the EPA in addition to state permit agencies.

Summary of Amended Bill: Growth Management Act. The Growth Management Act (GMA) permit planning goal is amended to clarify that state and local government permit agencies should coordinate and process permits in a timely and fair manner to ensure predictability for applicants.

Local Project Review. Counties, cities and towns adopting consolidated permitting procedures under Chapter 36.70B may conduct administrative review of preliminary plats consistent with the time periods specified in those procedures.

Permit Assistance Center. The Permit Assistance Center (PAC) is reauthorized. Cost recovery is authorized and small projects have general fund priority. The reporting is biennial and the reporting requirements are expanded. The Department of Ecology may establish regional permit assistance centers.

The PAC will collaborate with state agencies and local government on a study of the measures necessary to establish an integrated permit process. The PAC's purposes are expanded to provide a forum for resolving differences among agencies related to projects on state-owned aquatic lands (SOAL). The PAC will facilitate a scoping meeting among permitting agencies and the project applicant regarding projects on SOAL.

State Agency Programs. DFW and DOT are encouraged to develop programmatic permits with state and federal agencies to meet the requirements of the Endangered Species Act (ESA). Reports to the Legislature are required on the status of any program submitted to federal agencies implementing the ESA.

The DFW is directed to study of HPA program to determine its effectiveness in meeting the requirements of the ESA.

Three, four, and five-year schedules are established for shoreline master program amendments, for any guidelines adopted by the Department of Ecology before December 31, 2000.

Amended Bill Compared to Substitute Bill: The sections adding timelines to the review of state and federal water quality permits in Chapter 90.48 RCW are deleted. The provisions reauthorizing the Permit Assistance Center are deleted and replaced with provisions of SSB 5148. The Department of Ecology is encouraged to establish regional permit assistance centers and to pay for staffing with general funds and funds from other sources; the null and void provision is deleted. The provisions relating to review of projects on state owned aquatic lands are amended to require specific permits. The intent that state agencies "speak with one voice" on aquatic lands projects is deleted. The provisions for an HPA pilot project in King County are modified to direct a study of HPAs to meet the requirements of the Endangered Species Act. The sections requiring the development of an integrated permit process are modified to direct a study of the measures necessary to

establish such a process. The provisions related to a programmatic approach for the Department of Transportation are amended to relate specifically to the Endangered Species Act. The provisions related to a programmatic approach for the Department of Fish and Wildlife are amended to address specifically the HPA program's relation to the Endangered Species Act. Sections encouraging a programmatic approach and the development of general permits for the DNR and DOE are deleted. Provisions are added relating to the update of shoreline master programs.

Appropriation: None.

Fiscal Note: Requested on March 22, 1999.

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

Testimony For (Environmental Quality & Water Resources): Large projects, such as the second Tacoma Narrows bridge or Trendwest Resorts, would benefit from the reauthorization of the Permit Assistance Center and the expansion of cost reimbursement. For aquatic lands projects, there should be coordination among the permitting agencies and the project applicant at the outset of permit review. The state has much to gain from seeking approval of state regulatory and construction programs from federal agencies implementing the Endangered Species and Clean Water Acts.

Testimony Against (Environmental Quality & Water Resources): General permits may not be appropriate for site-specific forest practices and surface mining regulations. Hydraulic project approvals (HPA) are intended to protect resources of statewide significance; this may not occur if a county issues HPAs. There do not appear to be problems with Ecology's approval of water pollution control permits and no changes to Chapter 90.40 RCW are warranted. Requiring an integrated permit process is a hangover from the land use study commission and is premature.

Testified (Environmental Quality & Water Resources): Jim Metcalf, United Infrastructure Company/Bechtel (pro Permit Assistance Center reauthorization only); Kevin Raymond, Cairnevoss & Hempelmann for Trendwest (pro PAC reauthorization and regional centers only); Scott Merriman, Department of Natural Resources (concerns); Greg Hueckel, Department of Fish and Wildlife (pro with concerns); Bruce Wishart, People for Puget Sound (con); Josh Baldi, Washington Environmental Council (con); Ron Shultz, National Audubon Society (con); Scott Boettcher, Department of Ecology (pro with concerns); Peter McMillin, Department of Community, Trade, and Economic Development (pro PAC reauthorization only); Bill Clarke, Realtors (concerns); Jerry Alb, Department of Transportation (pro); Jerry Smedes, Stone River Development Corporation and NW Environmental Business Council (pro with concerns); Paul Parker, Washington State Association of Counties (pro with concerns); Dawn Vyvyan, Washington Association of Biologists and Yakama Nation (con on HPA pilot); Scott Hazlegrove, (pro with concerns).

Testimony For (Ways & Means): The bill as amended by the Senate Environmental Quality and Water Resources Committee will provide greater coordination on permitting and leasing issues on state-owned aquatic lands. Cost reimbursement will allow large developers to pay for the additional costs associated with complex developments.

Testimony Against (Ways & Means): None.

Testified (Ways & Means): PRO: Scott Merriman, Department of Natural Resources; Steve Gano, Trendwest Resorts; Scott Boettcher, Ecology.