

SB 5279 - S AMD 208

By Senators Prentice, Swecker, Haugen

ADOPTED 03/18/2003

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 47.06C.010 and 2001 1st sp.s. c 2 s 1 are each
4 amended to read as follows:

5 The legislature finds that the public health and safety of its
6 citizens, the natural resources, and the environment are vital
7 interests of the state that need to be protected and preserved. The
8 legislature further finds that the safety of the traveling public and
9 the state's economic well-being are vital interests that depend upon
10 the development of cost-effective and efficient transportation systems
11 planned, designed, constructed, and maintained through expedited permit
12 decision-making processes.

13 It is the intent of the legislature to achieve transportation
14 permit reform that expedites the delivery of (~~statewide significant~~)
15 transportation projects through a streamlined approach to environmental
16 permit decision making. To optimize the limited resources available
17 for transportation system improvements and environmental protection,
18 state regulatory and natural resource agencies, public and private
19 sector interests, Indian tribes, local and regional governments,
20 applicable federal agencies, and the department of transportation must
21 work cooperatively to establish common goals, minimize project delays,
22 develop consistency in the application of environmental standards,
23 maximize environmental benefits through coordinated investment
24 strategies, and eliminate duplicative processes through assigned
25 responsibilities of selected permit drafting and compliance activities
26 between state and federal agencies.

27 Therefore, the transportation permit efficiency and accountability
28 committee is created. The committee shall integrate current
29 environmental standards, but may not create new environmental

1 standards. The committee shall conduct three environmental permit
2 streamlining pilot projects and create a process to develop general
3 permits. Additionally, the committee shall seek federal delegation to
4 the state where appropriate to streamline transportation projects.

5 **Sec. 2.** RCW 47.06C.040 and 2001 1st sp.s. c 2 s 4 are each amended
6 to read as follows:

7 (1)(a) The committee and its authorized technical subcommittees
8 shall develop a one-stop permit decision-making process that uses
9 interdisciplinary review of transportation projects of statewide
10 significance to streamline and expedite permit decision making. The
11 committee shall collaborate with appropriate agencies and parties to
12 identify existing environmental standards, to assess the application of
13 those standards, and develop an integrated permitting process based
14 upon environmental standards and best management practices, which may
15 use prescriptive or performance standards, for transportation projects
16 of statewide significance that can be applied with certainty,
17 consistency, and assurance of swift permit action, while taking into
18 account the varying environmental conditions throughout the state.

19 (b) By June 30, 2003, the committee shall develop a detailed work
20 plan of one-stop permitting activities for review by the legislature.
21 The work plan must include both a schedule to use the one-stop permit
22 process on all funded transportation projects of statewide significance
23 and any additional resources needed to ensure that this occurs. This
24 work plan must include a process that enables the department to propose
25 permit terms and conditions for permitting agency review and approval.

26 (c) The committee shall provide a status report to the legislature
27 by December 31, 2003, and shall also identify barriers and
28 opportunities to achieve a concurrent public review process, concurrent
29 public hearings, and a unified appeals process for one-stop permitting.

30 (2) The committee shall give notice to the legislative authority of
31 each affected county and city of the projects that are designated as
32 transportation projects of statewide significance.

33 (3) The committee shall create a technical subcommittee with
34 representation at a minimum from the department of fish and wildlife,
35 the department of ecology, and the department of transportation.

36 (a) Within six months from the first meeting of the committee, the
37 subcommittee shall create a process to develop a programmatic approach

1 for transportation projects. The committee shall review the
2 department's construction project list to determine which projects or
3 activities may be included in the programmatic approach and develop
4 agreements ~~((to cover))~~ with a goal of covering seventy percent of
5 those projects or activities with programmatic agreements. At a
6 minimum, this process must require that decisions on minor variations
7 to the requirements of a programmatic approach must be provided by the
8 permit decision-making agencies within twenty-one days of submittal.

9 (b) By June 30, 2003, the committee shall prioritize programmatic
10 agreement opportunities identified in (a) of this subsection, develop
11 a detailed work plan to achieve the goals set forth, and submit the
12 report and plan to the legislature. The work plan must be reviewed and
13 updated on a quarterly basis and submitted to the legislature twice
14 yearly. This work plan must include the following elements:

15 (i) A schedule of activities and resources needed to achieve
16 completion of the nine highest priority multiagency programmatic
17 agreements by June 30, 2004;

18 (ii) A prioritized list of the remaining departmental activities
19 eligible for programmatic, multiagency consideration by September 30,
20 2003;

21 (iii) A schedule of activities and resources to achieve completion
22 of the prioritized list of programmatic agreements by December 31,
23 2005.

24 (c) The committee shall work with local governments to identify
25 opportunities to integrate local government requirements in the
26 agreements or permits identified in (b) of this subsection.

27 (d) The technical subcommittee's recommendations must be approved
28 by a majority of the voting members of the committee.

29 (4) The committee shall explore the development of a consolidated
30 local permit process.

31 (5) The committee shall conduct one or more pilot projects to
32 implement the collaborative review process set forth in RCW 36.70A.430
33 to review and coordinate state and local permits for a transportation
34 project funded in the transportation budget and that crosses more than
35 one city or county boundary.

36 (6) The committee shall appoint a task force of representatives
37 from cities and counties, the department of transportation, and other
38 agencies as appropriate to identify one or more city or county permits

1 for activities for which uniform standards can be developed for
2 application by local governments. It is the goal of the task force to
3 develop uniform standards and best practices for these identified
4 permits that may be used by local governments in issuing their permits.
5 The task force shall identify strategies for local governments to adapt
6 these standards and best practices to local conditions. The committee
7 shall encourage local governments to use these standards and best
8 practices in local ordinances. The task force shall submit a progress
9 report to the committee and the legislature by December 31, 2003, and
10 shall conclude its work and report its final recommendations for review
11 to the committee and the legislature no later than December 31, 2004.

12 (7) The committee shall develop and prioritize a list of permit
13 streamlining opportunities, specifically identifying substantive and
14 procedural duplications and recommendations for resolving those
15 duplications. The committee shall evaluate current laws and
16 regulations and develop recommendations on ways to minimize the lapsing
17 of permits. The committee shall evaluate flexible approaches that
18 maximize transportation and environmental interests and make
19 recommendations regarding where those approaches should be implemented.
20 ~~((The committee shall report its findings and recommendations to the~~
21 ~~legislature by January 15, 2002.~~

22 ~~(6))~~ (8) The committee shall undertake the following activities to
23 develop a watershed approach to environmental mitigation:

24 (a) Develop methodologies for analyzing environmental impacts and
25 applying compensatory mitigation consistent with a watershed-based
26 approach before final design, including least cost methodology and low-
27 impact development methodology;

28 (b) Assess models to collate and access watershed data to support
29 early agency involvement in transportation planning and reviews under
30 the national Environmental Policy Act and the State Environmental
31 Policy Act; ~~((and))~~

32 (c) Use existing best available information from watershed planning
33 efforts, lead entities, regional fisheries enhancement groups, and
34 other recognized entities as deemed appropriate by the committee, to
35 determine potential mitigation requirements for projects within a
36 watershed. Priority consideration should be given to the use of the
37 state's alternative mitigation policy guidance to best link

1 transportation mitigation needs with local watershed and lead entity
2 project lists; and

3 (d) By June 30, 2003, develop a detailed work plan that covers
4 watershed-based mitigation activities. This work plan must be
5 submitted to the legislature and include the following elements:

6 (i) A schedule of activities and resources needed to complete a
7 watershed-based mitigation policy by December 31, 2003, that covers
8 elements of permitting deemed appropriate by the committee;

9 (ii) A schedule of activities and resources needed to develop
10 watershed-based mitigation decision-making tools by June 30, 2004;

11 (iii) A schedule of activities and resources needed to complete a
12 test of technical and policy methods of watershed-based mitigation
13 decision making by December 31, 2004, for a funded project in an
14 urbanized area of the state; and

15 (iv) A schedule to integrate watershed-based mitigation policies,
16 technical tools, and procedures for projects by June 30, 2005.

17 ~~((+7))~~ (9)(a) The committee shall seek federal delegation to the
18 state where appropriate to streamline permit processes for
19 transportation projects of statewide significance including:
20 Delegation of section 404 permit authority under the Clean Water Act;
21 nonfederal lead agency status under the federal Endangered Species Act;
22 section 106 cultural resource designation under the National Historic
23 Preservation Act; and other appropriate authority that when delegated
24 should result in permit streamlining.

25 ~~((+8))~~ (b) The department, the department of ecology, and the
26 department of fish and wildlife shall jointly review relevant federal,
27 state, and local environmental laws, regulations, policies, guidance,
28 studies, and streamlining initiatives, and shall report to the
29 committee and the legislature by September 30, 2003, on those instances
30 where such might allow for delegation to the department or some other
31 duly recognized entity as appropriate. The report must include
32 recommendations on:

33 (i) How to delegate consistent with federal permit streamlining
34 efforts contained in new federal transportation authorizations and
35 under Presidential Executive Order number 13274, Environmental
36 Stewardship and Transportation Infrastructure Project Reviews,
37 September 18, 2002;

1 (ii) How to maximize possible use of programmatic approaches to
2 simplify issuance of federally required permits and project approvals;

3 (iii) The scope, roles, and responsibilities associated with any
4 such delegation, especially as relates to regulatory standard setting,
5 permitting, and oversight; and

6 (iv) A work plan and schedule of activities and resources needed to
7 implement the recommendations of the department, the department of
8 ecology, and the department of fish and wildlife on this matter.

9 The committee shall take action on the report, and shall report to
10 the legislature by December 31, 2003, and every six months thereafter
11 on the status of such delegation efforts.

12 (10) The committee shall develop a dispute resolution process to
13 resolve conflicts in interpretation of environmental standards and best
14 management practices, mitigation requirements, permit requirements,
15 assigned responsibilities, and other related issues by September 1,
16 2001. The dispute resolution process may not abrogate or supplant any
17 appeal right of any party under existing statutes. The dispute
18 resolution process must be designed to include federal agencies if they
19 choose to participate.

20 ~~((9))~~ (11) The committee shall develop preliminary models and
21 strategies for agencies to test how best to maximize the environmental
22 investment of transportation funds on a watershed basis. After
23 agencies test the models and strategies developed by the committee, the
24 committee shall evaluate the models and strategies and make
25 recommendations to the legislature.

26 ~~((10))~~ (12) The committee shall develop a consistent methodology
27 for the timely and predictable submittal and evaluation of completed
28 plans and specifications detailing project elements that impact
29 environmental resources as well as proposed mitigation measures during
30 the preliminary specifications and engineering phase of project
31 development and submit information on the consistent methodology to the
32 legislature.

33 ~~((11))~~ (13) The committee shall provide a summary report to the
34 legislature on ~~((September 15, 2001))~~ December 31, 2003, and every six
35 months thereafter that details the committee's status and performance
36 and its progress in implementing its master work plan.

1 **Sec. 3.** RCW 47.06C.901 and 2001 1st sp.s. c 2 s 13 are each
2 amended to read as follows:

3 This act expires March 31, (~~2003~~) 2006.

4 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
5 preservation of the public peace, health, or safety, or support of the
6 state government and its existing public institutions, and takes effect
7 immediately."

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8 In line 2 of the title, after "committee;" strike the remainder of
9 the title and insert "amending RCW 47.06C.010, 47.06C.040, and
10 47.06C.901; and declaring an emergency."

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