

CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 5279

58th Legislature
2003 Regular Session

Passed by the Senate March 18, 2003
YEAS 46 NAYS 0

President of the Senate

Passed by the House March 28, 2003
YEAS 70 NAYS 19

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Milton H. Doumit, Jr.,
Secretary of the Senate of the
State of Washington, do hereby
certify that the attached is
ENGROSSED SENATE BILL 5279 as
passed by the Senate and the House
of Representatives on the dates
hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SENATE BILL 5279

Passed Legislature - 2003 Regular Session

State of Washington 58th Legislature 2003 Regular Session

By Senators Prentice, Swecker, Horn, Haugen, Doumit, Finkbeiner, Benton, Esser, Morton, Johnson, T. Sheldon, Hargrove, Brandland, Honeyford, Jacobsen, Oke and Rasmussen

Read first time 01/21/2003. Referred to Committee on Highways & Transportation.

1 AN ACT Relating to extending the expiration date of the
2 transportation permit efficiency and accountability committee; amending
3 RCW 47.06C.010, 47.06C.040, and 47.06C.901; and declaring an emergency.

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

5 **Sec. 1.** RCW 47.06C.010 and 2001 1st sp.s. c 2 s 1 are each amended
6 to read as follows:

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

15 It is the intent of the legislature to achieve transportation
16 permit reform that expedites the delivery of ((statewide significant))
17 transportation projects through a streamlined approach to environmental
18 permit decision making. To optimize the limited resources available
19 for transportation system improvements and environmental protection,

1 state regulatory and natural resource agencies, public and private
2 sector interests, Indian tribes, local and regional governments,
3 applicable federal agencies, and the department of transportation must
4 work cooperatively to establish common goals, minimize project delays,
5 develop consistency in the application of environmental standards,
6 maximize environmental benefits through coordinated investment
7 strategies, and eliminate duplicative processes through assigned
8 responsibilities of selected permit drafting and compliance activities
9 between state and federal agencies.

10 Therefore, the transportation permit efficiency and accountability
11 committee is created. The committee shall integrate current
12 environmental standards, but may not create new environmental
13 standards. The committee shall conduct three environmental permit
14 streamlining pilot projects and create a process to develop general
15 permits. Additionally, the committee shall seek federal delegation to
16 the state where appropriate to streamline transportation projects.

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

19 (1)(a) The committee and its authorized technical subcommittees
20 shall develop a one-stop permit decision-making process that uses
21 interdisciplinary review of transportation projects of statewide
22 significance to streamline and expedite permit decision making. The
23 committee shall collaborate with appropriate agencies and parties to
24 identify existing environmental standards, to assess the application of
25 those standards, and develop an integrated permitting process based
26 upon environmental standards and best management practices, which may
27 use prescriptive or performance standards, for transportation projects
28 of statewide significance that can be applied with certainty,
29 consistency, and assurance of swift permit action, while taking into
30 account the varying environmental conditions throughout the state.

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

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

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

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

11 (a) Within six months from the first meeting of the committee, the
12 subcommittee shall create a process to develop a programmatic approach
13 for transportation projects. The committee shall review the
14 department's construction project list to determine which projects or
15 activities may be included in the programmatic approach and develop
16 agreements ~~((to cover))~~ with a goal of covering seventy percent of
17 those projects or activities with programmatic agreements. At a
18 minimum, this process must require that decisions on minor variations
19 to the requirements of a programmatic approach must be provided by the
20 permit decision-making agencies within twenty-one days of submittal.

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

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

30 (ii) A prioritized list of the remaining departmental activities
31 eligible for programmatic, multiagency consideration by September 30,
32 2003;

33 (iii) A schedule of activities and resources to achieve completion
34 of the prioritized list of programmatic agreements by December 31,
35 2005.

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

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

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

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

10 (6) The committee shall appoint a task force of representatives
11 from cities and counties, the department of transportation, and other
12 agencies as appropriate to identify one or more city or county permits
13 for activities for which uniform standards can be developed for
14 application by local governments. It is the goal of the task force to
15 develop uniform standards and best practices for these identified
16 permits that may be used by local governments in issuing their permits.
17 The task force shall identify strategies for local governments to adapt
18 these standards and best practices to local conditions. The committee
19 shall encourage local governments to use these standards and best
20 practices in local ordinances. The task force shall submit a progress
21 report to the committee and the legislature by December 31, 2003, and
22 shall conclude its work and report its final recommendations for review
23 to the committee and the legislature no later than December 31, 2004.

24 (7) The committee shall develop and prioritize a list of permit
25 streamlining opportunities, specifically identifying substantive and
26 procedural duplications and recommendations for resolving those
27 duplications. The committee shall evaluate current laws and
28 regulations and develop recommendations on ways to minimize the lapsing
29 of permits. The committee shall evaluate flexible approaches that
30 maximize transportation and environmental interests and make
31 recommendations regarding where those approaches should be implemented.
32 ~~((The committee shall report its findings and recommendations to the~~
33 ~~legislature by January 15, 2002.~~

34 ~~(6+))~~ (8) The committee shall undertake the following activities to
35 develop a watershed approach to environmental mitigation:

36 (a) Develop methodologies for analyzing environmental impacts and
37 applying compensatory mitigation consistent with a watershed-based

1 approach before final design, including least cost methodology and low-
2 impact development methodology;

3 (b) Assess models to collate and access watershed data to support
4 early agency involvement in transportation planning and reviews under
5 the national Environmental Policy Act and the State Environmental
6 Policy Act; (~~and~~)

7 (c) Use existing best available information from watershed planning
8 efforts, lead entities, regional fisheries enhancement groups, and
9 other recognized entities as deemed appropriate by the committee, to
10 determine potential mitigation requirements for projects within a
11 watershed. Priority consideration should be given to the use of the
12 state's alternative mitigation policy guidance to best link
13 transportation mitigation needs with local watershed and lead entity
14 project lists; and

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

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

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

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

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

29 (~~(7)~~) (9)(a) The committee shall seek federal delegation to the
30 state where appropriate to streamline permit processes for
31 transportation projects of statewide significance including:
32 Delegation of section 404 permit authority under the Clean Water Act;
33 nonfederal lead agency status under the federal Endangered Species Act;
34 section 106 cultural resource designation under the National Historic
35 Preservation Act; and other appropriate authority that when delegated
36 should result in permit streamlining.

37 (~~(8)~~) (b) The department, the department of ecology, and the
38 department of fish and wildlife shall jointly review relevant federal,

1 state, and local environmental laws, regulations, policies, guidance,
2 studies, and streamlining initiatives, and shall report to the
3 committee and the legislature by September 30, 2003, on those instances
4 where such might allow for delegation to the department or some other
5 duly recognized entity as appropriate. The report must include
6 recommendations on:

7 (i) How to delegate consistent with federal permit streamlining
8 efforts contained in new federal transportation authorizations and
9 under Presidential Executive Order number 13274, Environmental
10 Stewardship and Transportation Infrastructure Project Reviews,
11 September 18, 2002;

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

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

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

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

23 (10) The committee shall develop a dispute resolution process to
24 resolve conflicts in interpretation of environmental standards and best
25 management practices, mitigation requirements, permit requirements,
26 assigned responsibilities, and other related issues by September 1,
27 2001. The dispute resolution process may not abrogate or supplant any
28 appeal right of any party under existing statutes. The dispute
29 resolution process must be designed to include federal agencies if they
30 choose to participate.

31 ~~((+9))~~ (11) The committee shall develop preliminary models and
32 strategies for agencies to test how best to maximize the environmental
33 investment of transportation funds on a watershed basis. After
34 agencies test the models and strategies developed by the committee, the
35 committee shall evaluate the models and strategies and make
36 recommendations to the legislature.

37 ~~((+10))~~ (12) The committee shall develop a consistent methodology
38 for the timely and predictable submittal and evaluation of completed

1 plans and specifications detailing project elements that impact
2 environmental resources as well as proposed mitigation measures during
3 the preliminary specifications and engineering phase of project
4 development and submit information on the consistent methodology to the
5 legislature.

6 ((~~11~~)) (13) The committee shall provide a summary report to the
7 legislature on ((~~September 15, 2001~~)) December 31, 2003, and every six
8 months thereafter that details the committee's status and performance
9 and its progress in implementing its master work plan.

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

12 This act expires March 31, ((2003)) 2006.

13 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
14 preservation of the public peace, health, or safety, or support of the
15 state government and its existing public institutions, and takes effect
16 immediately.

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