

SENATE BILL REPORT

ESB 6762

As Passed Senate, February 12, 2010

Title: An act relating to compliance with the state environmental policy act.

Brief Description: Regarding compliance with the state environmental policy act in the consideration of cumulative impacts and the assumption of lead agency status when the same agency is the sponsor of the project.

Sponsors: Senators Fraser, Haugen and Kline.

Brief History:

Committee Activity: Environment, Water & Energy: 2/03/10 [DP, DNP].
Passed Senate: 2/12/10, 47-0.

SENATE COMMITTEE ON ENVIRONMENT, WATER & ENERGY

Majority Report: Do pass.

Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Fraser, Marr, Oemig and Ranker.

Minority Report: Do not pass.

Signed by Senators Honeyford, Ranking Minority Member; Delvin and Morton.

Staff: Jan Odano (786-7486)

Background: The State Environmental Policy Act (SEPA) applies to decisions made by state and local agencies, including counties, cities, ports, and special districts. It provides a framework to consider the environmental consequences of a proposed project prior to taking action on the proposal.

The SEPA process begins with a permit application or initiation of an agency proposal. The proposal is reviewed to determine if it is exempt or if SEPA is required. The environmental review process involves the identification and evaluation of probable environmental impacts, and the development of mitigation measures that will reduce adverse environmental impacts. This environmental information, along with other considerations, is used by agency decision-makers to decide whether to approve a proposal, approve it with conditions, or deny the proposal.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

A proposal that is likely to have significant adverse environmental impacts requires an environmental impact statement (EIS). The lead agency prepares the EIS to provide an impartial review of significant environmental impacts, reasonable alternatives, and mitigation activities that would avoid or minimize the adverse impacts.

For most proposals one agency is designated as the lead agency. The lead agency is oftentimes the agency proposing the project, although the lead agency status may be transferred by agency agreement. The lead agency is responsible for complying with procedural requirements of SEPA, making the threshold determination, conducting the environmental review for a proposal, and documenting that review.

Summary of Engrossed Bill: The EIS must evaluate, in the same environmental document, closely related proposals, or parts of proposals, that are in effect a single course of action if the proposal, or parts of proposals, cannot proceed unless implemented simultaneously; or if the larger proposal is necessary for justifying or implementing the parts of the proposal. The EIS must discuss the cumulative impacts of an action. The environmental statements, reports, and EIS provisions are not imposed on actions that are statutorily exempt from the environmental review requirements.

The agency proposing a project is the lead agency. Agencies must determine by agreement the lead agency when there are more than two agencies responsible for implementing a proposal. When possible, agency staff conducting the environmental review must be different than the staff developing the proposal.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: This bill puts into statute existing policy, rule, or case law. Consideration of closely related actions that are in effect must be reviewed together to address their environmental impact. Some parties have divided actions to avoid environmental analysis. Agencies can be very enthusiastic about their projects and understate the environmental impact. Addressing cumulative impacts is important because otherwise these issues end up in court and cost a lot of money. Any effort to clarify SEPA is supported. We should parallel federal statutes.

CON: We have concerns with the sweeping scope of the bill and the impacts to development.

Persons Testifying: PRO: Senator Fraser, prime sponsor; Senator Haugen, co-sponsor; April Putney, Futurewise; Arthur West, citizen.

CON: Jeanette McKague, WA Realtors.