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HOUSE BILL 2039

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State of Washington

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By Representatives Roach, Bailey, Kristiansen, Johnson, Haler, McCune, Newhouse, and Kretz

Read first time 02/06/09. Referred to Committee on Transportation.

1 AN ACT Relating to providing an expedited permit process for  
2 transportation projects of statewide significance; adding a new section  
3 to chapter 47.01 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that expediting the  
6 permit approval process for transportation projects of statewide  
7 significance is essential to reducing project delays and making the  
8 most efficient use of available funding. The legislature intends with  
9 this act to provide an expedited permit process for transportation  
10 projects of statewide significance so that construction of the projects  
11 can begin as quickly as possible.

12 NEW SECTION. **Sec. 2.** A new section is added to chapter 47.01 RCW  
13 to read as follows:

14 The department shall use the process described under subsections  
15 (1) through (6) of this section for transportation projects of  
16 statewide significance, including projects requested by a private  
17 sector partner under chapter 47.29 RCW. For the purposes of this  
18 section, "transportation project of statewide significance" means a

1 single project or combination of projects along a state route,  
2 interstate highway, or highway of statewide significance, the cost of  
3 which is more than one billion dollars.

4 (1) Step 1: Conceptual description. The department shall identify  
5 project purposes, the approximate location or alternative locations,  
6 the federal, state, and local agencies that might have authority to  
7 review and approve the project or portions of the project at any such  
8 locations, a preliminary interagency communication list identifying  
9 agencies that may be interested in the proposed project, and, where  
10 known, contact persons in such agencies. If the department intends to  
11 proceed with step 2 or abandon the project, it may complete this step  
12 by: (a) Providing a summary of the outcome to all agencies on the  
13 interagency communication list; and (b) making the summary available to  
14 the public.

15 (2) Step 2: Early involvement of other agencies.

16 (a) At any time after completing step 1, the department shall  
17 provide notice to all agencies on the interagency communication list  
18 and the public. Within thirty days, or a longer period of time if  
19 specified by the department, each state, local, and federal agency must  
20 be encouraged to identify:

21 (i) A primary contact person to coordinate future communications  
22 with the department and other interested agencies regarding the  
23 project, or indicate that it has no interest in the project and does  
24 not need to remain on the project information list;

25 (ii) Its role with respect to the proposed project;

26 (iii) Additional alternative locations the department should  
27 consider and the roles it would expect to have with the project at  
28 those locations;

29 (iv) Other agencies it believes should be added to the interagency  
30 communication list for the project; and

31 (v) Other information it requests the department to consider.

32 (b) After all state and local agencies on the interagency  
33 communication list have responded, or at least ten days after the  
34 expiration of the specified response time, the department may complete  
35 this step by: (i) Proposing one or more conceptual designs for the  
36 project at a proposed location and any alternative locations then being  
37 considered; (ii) providing a summary of the results of this step,  
38 including a statement that the department considers this step to be

1 complete or complete except for specified issues remaining to be  
2 resolved with specified agencies, to all agencies on the interagency  
3 communication list; and (iii) making the summary available to the  
4 public.

5 (3) Step 3: Identify environmental reviews, permits, and other  
6 approvals, application procedures, and decision standards.

7 (a) At any time after completing step 2, the department may  
8 initiate this step by providing notice to all agencies on the  
9 interagency communication list and the public. This notice may include  
10 a threshold determination on whether an environmental impact statement  
11 or supplemental environmental impact statement will be prepared or an  
12 environmental checklist and request for comments on what steps should  
13 be taken to comply with chapter 43.21C RCW. Within thirty days, or a  
14 longer period of time if specified by the department, each state,  
15 local, and federal agency must be encouraged to identify:

16 (i) The procedures under which it expects environmental reviews of  
17 the project to occur;

18 (ii) All permits and other approvals it might require for the  
19 project at each alternative location and conceptual design;

20 (iii) What is needed for the department to file a complete  
21 application for each permit or other approval;

22 (iv) The laws, regulations, ordinances, and policies it would  
23 administer with respect to the project at each alternative location and  
24 conceptual design; and

25 (v) Other information it requests the department to consider in  
26 deciding whether, when, where, or how to proceed with the project.

27 (b) After all state and local agencies on the interagency  
28 communication list have responded, or at least ten days after the  
29 expiration of the specified response time, the department may complete  
30 this step by:

31 (i) Adopting a list of all environmental reviews, permits, and  
32 other approvals it believes are needed for the project under each  
33 alternative being considered;

34 (ii) Providing all agencies on the interagency communication list  
35 a copy of that list and a summary of the results of this step,  
36 including a statement that the department considers this step to be  
37 complete or complete except for specified issues remaining to be  
38 resolved with specified agencies; and

1 (iii) Making the list described under (b)(i) of this subsection and  
2 summary available to the public.

3 (c) The list described under (b)(i) of this subsection and summary  
4 are presumed to accurately identify all environmental reviews, permits,  
5 and other approvals needed for each alternative described, what is  
6 required for applications to be considered complete, and the standards  
7 under which applications will be reviewed and approved, unless an  
8 aggrieved agency or person files objections within thirty days after  
9 the list and summary are distributed.

10 (4) Step 4: Tentative selection of a preferred alternative.

11 (a) At any time after completing step 3, the department may  
12 initiate this step by providing notice to all agencies on the  
13 interagency communication list and the public. This notice may be  
14 accompanied by a scoping notice for an environmental impact statement  
15 or supplemental environmental impact statement or, if available, be  
16 accompanied by a draft environmental impact statement or supplemental  
17 environmental impact statement. It also may be accompanied by the  
18 department's preliminary analysis of the advantages and disadvantages  
19 of each identified alternative, or other information that may be  
20 helpful to other interested agencies and the public in identifying  
21 advantages and disadvantages. Within fourteen days, or a longer period  
22 of time if specified by the department, each state, local, and federal  
23 agency must be encouraged to identify:

24 (i) For each identified alternative, the specific features it  
25 considers significant with respect to its role in environmental  
26 reviews, permits, or other approvals for the project, the reasons these  
27 features are significant, and any concerns it may have about the  
28 alternative because of potential adverse impacts of these features on  
29 resources or social policies within its jurisdiction;

30 (ii) For each feature for which it raises concerns, recommendations  
31 on how the potential adverse impacts could be avoided, minimized, and  
32 mitigated;

33 (iii) For each feature for which it raises concerns, an assessment  
34 of the relative ranking of each alternative with respect to whether and  
35 to what extent these concerns apply;

36 (iv) Recommendations it may have as to which alternatives should be  
37 retained or dropped from further consideration, and ways in which  
38 alternatives might be modified or combined to address its concerns,

1 recognizing that (A) final decisions can be made only through the  
2 applicable environmental review, permit, and other approval processes  
3 and (B) the agency making these decisions is not bound with respect to  
4 any future decisions it may make regarding the project; and

5 (v) Other information it requests the department to consider in  
6 deciding whether, when, where, or how to proceed with the project.

7 (b) After all state and local agencies on the interagency  
8 communication list have responded, or at least ten days after the  
9 expiration of the specified response time, the department may complete  
10 this step by:

11 (i) Selecting a preferred alternative for purposes of all  
12 environmental reviews, permits, and other approvals needed for the  
13 project;

14 (ii) Providing all agencies on the interagency communication list  
15 with a description of the preferred alternative and summary of the  
16 results of this step, including a statement that the department  
17 considers this step to be complete or complete except for specified  
18 issues remaining to be resolved with specified agencies; and

19 (iii) Making the preferred alternative and summary available to the  
20 public. The preferred alternative must be identified in all  
21 environmental reviews, permits, and other approvals needed for the  
22 project.

23 (5) Step 5: Completing environmental reviews and applications for  
24 permits and other approvals.

25 (a) At any time after completing step 4, the department may  
26 initiate this step by providing notice to all agencies on the  
27 interagency communication list and the public. A draft environmental  
28 impact statement or supplemental environmental impact statement, the  
29 department's draft plans and specifications for the project, and draft  
30 applications for some or all permits and other approvals may be  
31 provided with the notice or when these materials subsequently become  
32 available. Within thirty days, or a longer period of time if specified  
33 by the department, each state, local, and federal agency must be  
34 encouraged to identify:

35 (i) All concerns it previously raised regarding the alternative,  
36 and other alternatives still under consideration, that have not been  
37 resolved to its satisfaction;

1 (ii) Additional concerns it may have, particularly concerns  
2 resulting from additional information about the project location and  
3 design and other new information received since the completion of step  
4 4;

5 (iii) Additional environmental reviews, permits, or other approvals  
6 needed for the preferred alternative because of changes in laws,  
7 regulations, or policies, or changes in the project location or design,  
8 since these issues were last reviewed under step 3 or 4;

9 (iv) Changes in applicable requirements for complete applications  
10 for permits or other approvals under its jurisdiction since these  
11 issues were last reviewed under step 3 or 4;

12 (v) Other changes in applicable laws, regulations, ordinances, or  
13 policies administered by the agency since these issues were last  
14 reviewed under step 3 or 4; and

15 (vi) Whether a draft application proposed by the department for a  
16 permit or other approval from the agency is complete, and if not, what  
17 additional information or other changes are needed for it to be  
18 complete.

19 (b) When all state and local agencies on the interagency  
20 communication list have responded, or at least ten days after the  
21 expiration of the specified response time, the department may complete  
22 this step by:

23 (i) Completing some or all of the environmental review processes  
24 and draft application forms for permits and other approvals that it  
25 reasonably believes to be complete;

26 (ii) Providing all agencies on the interagency communication list  
27 with environmental review and application documents and a summary of  
28 the results of this step, including a statement that the department  
29 considers this step to be complete or complete except for specified  
30 issues remaining to be resolved with specified agencies; and

31 (iii) Making the completed environmental review documents and  
32 summary available to the public. The preferred alternative must be  
33 identified in all environmental reviews, permits, and other approvals  
34 needed for the project.

35 (c) If an interested agency or aggrieved person files objections  
36 within fourteen days after the preferred alternative and summary are  
37 distributed, the objections must be addressed in subsequent  
38 environmental reviews and agency decisions regarding the project.

1 (6) Step 6: Completing the environmental review, permit, and other  
2 approval processes.

3 (a) At any time after completing step 5, the department may  
4 initiate this step by providing notice to all agencies on the  
5 interagency communication list and the public and by filing  
6 applications for some or all permits and other approvals needed for the  
7 project. Within thirty days, or a longer period of time if specified  
8 by the department, each state, local, and federal agency must be  
9 encouraged to:

10 (i) Acknowledge receipt of draft environmental review documents and  
11 provide comments on these documents;

12 (ii) Acknowledge receipt of final environmental review documents  
13 and determine that these documents are adequate for purposes of their  
14 roles regarding the project or specify what additional information or  
15 changes are needed for these documents to be considered adequate;

16 (iii) Acknowledge receipt of each application filed and determine  
17 that the application is complete or specify what additional information  
18 or changes are needed for the application to be considered complete;

19 (iv) Acknowledge that the applications submitted will be processed  
20 under the laws, regulations, ordinances, and policies previously  
21 identified under steps 3, 4, and 5 or specify what changes have  
22 occurred in the governing standards that were in effect on the date a  
23 complete application was filed and, as a result, apply to the project;

24 (v) Identify the significant steps necessary for it to reach a  
25 final decision on applications and the estimated time needed for each  
26 step; and

27 (vi) Identify ways its decision-making process might be made more  
28 efficient and effective through additional coordination with other  
29 agencies, with any recommendations for such methods as joint  
30 solicitation and review of public comments and jointly conducting  
31 public hearings.

32 (b) This step may require an iterative process with several drafts  
33 of various environmental review documents and applications being  
34 considered and revised, and that changes in project location or design  
35 resulting from the permit decisions of one agency may require revising  
36 applications or reopening permit decisions of other agencies. All  
37 state and local agencies are expected, and federal agencies are  
38 encouraged, to communicate and cooperate to minimize the number of

1 iterations required and make the process as efficient and effective as  
2 possible. Unless significant new information is obtained, decisions  
3 made under this step should not be reopened except at the request of  
4 the department, and the most recent information available under steps  
5 3, 4, and 5 should be presumed accurate until significant new  
6 information becomes available.

7 (c) If all environmental reviews have not been completed and all  
8 permits and other approvals have not been obtained within forty-five  
9 days after this step is initiated, the department, by providing notice  
10 to all agencies on the interagency communication list and the public,  
11 may set a deadline for completing reviews and decisions. At any time  
12 after the deadline, the department may terminate the coordination  
13 process of this section as to some or all of the reviews and decisions  
14 that are still not completed.

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