
ENGROSSED SUBSTITUTE HOUSE BILL 1957

State of Washington 63rd Legislature 2013 2nd Special Session

By House Transportation (originally sponsored by Representatives
Clibborn, Lillas, Moscoso, and Fey)

READ FIRST TIME 04/09/13.

1 AN ACT Relating to department of transportation project delivery;
2 amending RCW 47.01.300; adding a new section to chapter 47.04 RCW;
3 adding a new section to chapter 47.01 RCW; providing a contingent
4 effective date; and providing a contingent expiration date.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 47.04 RCW
7 to read as follows:

8 (1) The legislature intends the department to deliver the projects
9 and activities listed in LEAP Transportation Document 2013-L1, as
10 developed June 23, 2013, as funded by new revenues provided in
11 chapter . . . (Substitute House Bill No. 1954), Laws of 2013 2nd sp.
12 sess. or chapter . . . (Senate Bill No. 5920), Laws of 2013 2nd sp.
13 sess., and for which appropriations of such funds are provided every
14 two years in the omnibus transportation appropriations act, in a manner
15 that exemplifies the stewardship goal in RCW 47.04.280.

16 (2) To allow the department the flexibility to deliver the projects
17 in the most expeditious and efficient manner, while at the same time
18 honoring the intent of the legislature under chapter . . . (Substitute
19 House Bill No. 1955), Laws of 2013 2nd sp. sess. or chapter . . .

1 (Senate Bill No. 5921), Laws of 2013 2nd sp. sess., the department's
2 stewardship in delivering the projects and activities under this
3 section is subject to the following limitations:

4 (a) The department must allocate funding to projects in a manner
5 that optimizes efficient management of project spending and delivery.
6 If the most recent engineer's estimate of a project cost differs from
7 the most recent project budget approved by the legislature by ten
8 percent or two hundred fifty thousand dollars, whichever is greater,
9 the department must seek approval before proceeding as provided in this
10 subsection (2).

11 (b) The legislative scope of a project may not be changed to a
12 material degree except:

13 (i) By the legislature; or

14 (ii) When a more efficient, less expensive, or more expeditious
15 scope would provide an equivalent functional outcome. If such an
16 alternative scope is identified, the department must seek approval
17 before proceeding as provided in this subsection (2).

18 (c)(i) To the extent possible within budgetary and financial
19 planning constraints, the department must adhere to the capital
20 delivery plan schedule adopted by the legislature and as referenced in
21 the LEAP transportation document identified in subsection (1) of this
22 section.

23 (ii) If adherence to the original capital delivery plan schedule
24 would result in failure to substantively meet the stewardship,
25 efficiency, and expediency objectives of this section, the department
26 may seek approval of reasonable changes in project scheduling so as to
27 meet the objectives as provided in this subsection (2).

28 (d) To seek approval of project changes under this subsection (2),
29 the department must submit a request to the office of financial
30 management. At the time the department submits a request to transfer
31 funds under this section, a copy of the request must be submitted to
32 the transportation committees of the legislature. The office of
33 financial management must work with legislative staff of the house of
34 representatives and senate transportation committees to review the
35 requested transfers in a timely manner.

36 (e) The department must develop by the end of each calendar quarter
37 a report with updates of any changes under (a), (b), or (c) of this

1 subsection. The report must be submitted to the office of financial
2 management and the transportation committees of the legislature.

3 (3) The legislature intends for the department to utilize a design-
4 build or similar alternative public works contracting procedure
5 whenever appropriate in highway construction, ferry vessel, or ferry
6 terminal construction contracts on projects and activities under this
7 section.

8 (4) For the delivery of projects and activities under this section,
9 the legislature intends for the department to develop a management
10 approach that minimizes the need to add additional permanent
11 engineering staff and other permanent professional staff in the highway
12 construction and ferry vessel and terminal construction programs. The
13 baseline for staffing levels should be:

14 (a) For highway construction, the full-time equivalent level for
15 such positions outlined by the secretary in the business plan for the
16 department at the end of fiscal year 2015; and

17 (b) For the ferry vessel and terminal construction program, the
18 full-time equivalent level for such positions at the end of fiscal year
19 2012.

20 (5)(a) In January of each year that precedes the next fiscal
21 biennium, beginning January 1, 2015, the department must submit a
22 report to the governor and to the transportation committees of the
23 legislature on progress made toward the delivery of all projects and
24 activities subject to this section.

25 (b) The secretary must certify to the governor and the legislature
26 the completion of the project package identified in the LEAP
27 transportation document identified in subsection (1) of this section,
28 or the most recent version approved by the legislature or the office of
29 financial management under subsection (2)(d) of this section, on the
30 date that the delivery of the projects and activities subject to this
31 section is substantively complete.

32 (6) The changes for which the department may seek approval under
33 subsection (2)(a), (b), or (c) of this section are changes to the cost,
34 scope, or schedule of a project relative to the cost, scope, or
35 schedule of the project in the LEAP transportation document identified
36 in subsection (1) of this section or the most recent version approved
37 by the legislature or the office of financial management under
38 subsection (2)(d) of this section.

1 (7) This section expires June 30, 2023, or the date the secretary
2 certifies that the delivery of the projects and activities listed in
3 the LEAP transportation document identified in subsection (1) of this
4 section, or the most recent version approved by the legislature or the
5 office of financial management under subsection (2)(d) of this section,
6 is substantively complete, whichever is later.

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

9 (1) The department must convene three expert review panels of no
10 more than three members to provide independent financial and technical
11 review for the development of a finance plan and project implementation
12 plan for the Columbia river crossing project, the state route number
13 520 bridge replacement and HOV project, and the Alaskan Way viaduct
14 replacement project.

15 (2) The expert review panels must be selected cooperatively by the
16 chairs of the senate and house of representatives transportation
17 committees, the secretary of transportation, and the governor.

18 (3) The expert review panels must, with respect to completion of
19 the project alternatives as described in the draft environmental impact
20 statement of each project:

21 (a) Review the finance plan for the project to ensure that it
22 clearly identifies secured and anticipated funding sources and is
23 feasible and sufficient; and

24 (b) Review the project implementation plan covering all state and
25 local permitting and mitigation approvals that ensure the most
26 expeditious and cost-effective delivery of the project.

27 (4) The expert review panels must report their findings and
28 recommendations on the items described under subsection (3) of this
29 section to the transportation committees of the legislature by October
30 2013, and annually thereafter, until the projects are operationally
31 complete.

32 (5) When convening the expert review panels, the department must be
33 attentive to cost and consider ways to minimize expert review panel
34 expenditures. Anticipated expenditures related to the expert review
35 panels must be included in the panel's findings and recommendation
36 reports.

1 **Sec. 3.** RCW 47.01.300 and 2012 c 62 s 1 are each amended to read
2 as follows:

3 The department shall, in cooperation with environmental regulatory
4 authorities:

5 (1) Identify and document environmental resources in the
6 development of the statewide multimodal plan under RCW 47.06.040;

7 (2) Allow for public comment regarding changes to the criteria used
8 for prioritizing projects under chapter 47.05 RCW before final adoption
9 of the changes by the commission;

10 (3) Use an environmental review as part of the project prospectus
11 identifying potential environmental impacts, mitigation, the
12 utilization of the mitigation option available in RCW 90.74.040, and
13 costs during the early project identification and selection phase,
14 submit the prospectus to the relevant environmental regulatory
15 authorities, and maintain a record of comments and proposed revisions
16 received from the authorities;

17 (4) Actively work with the relevant environmental regulatory
18 authorities during the design alternative analysis process and seek
19 written concurrence from the authorities that they agree with the
20 preferred design alternative selected;

21 (5) Develop a uniform methodology, in consultation with relevant
22 environmental regulatory authorities, for submitting plans and
23 specifications detailing project elements that impact environmental
24 resources, and proposed mitigation measures including the mitigation
25 option available in RCW 90.74.040, to the relevant environmental
26 regulatory authorities during the preliminary specifications and
27 engineering phase of project development;

28 (6) Use available technologies to minimize permit delays for,
29 inform and interact with interested parties including relevant
30 environmental regulatory authorities regarding, and optimize the
31 effectiveness of proposed compensatory mitigation projects;

32 (7)(a) In addition to the mitigation programs specified in RCW
33 90.74.040(1)(a), the correction of fish passage barriers on city
34 streets and county roads located within the same watershed as the
35 proposed project must be considered for compensatory mitigation. The
36 department shall consult with the department of fish and wildlife, the
37 appropriate local government, and interested tribes to identify the

1 existing fish passage barriers that, upon removal, will result in the
2 greatest habitat benefit.

3 (b) The department shall submit a report to the transportation
4 committees of the legislature by December 1, 2014, regarding the use
5 and effectiveness of the mitigation option created in this subsection
6 as well as recommendations for improvements;

7 (8) Screen construction projects to determine which projects will
8 require complex or multiple permits. The permitting authorities shall
9 develop methods for initiating review of the permit applications for
10 the projects before the final design of the projects;

11 ~~((7))~~ (9) Conduct special prebid meetings for those projects that
12 are environmentally complex; and

13 ~~((8))~~ (10) Review environmental considerations related to
14 particular projects during the preconstruction meeting held with the
15 contractor who is awarded the bid.

16 NEW SECTION. Sec. 4. This act takes effect if chapter . . .
17 (Substitute House Bill No. 1954), Laws of 2013 2nd sp. sess. or
18 chapter . . . (Senate Bill No. 5920), Laws of 2013 2nd sp. sess. is
19 enacted by July 31, 2013.

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