

HOUSE BILL REPORT

ESB 5111

As Reported by House Committee On:
Technology & Economic Development

Title: An act relating to projects of statewide significance for economic development and transportation.

Brief Description: Concerning projects of statewide significance for economic development and transportation.

Sponsors: Senator Brown.

Brief History:

Committee Activity:

Technology & Economic Development: 3/12/15, 4/1/15 [DPA].

**Brief Summary of Engrossed Bill
(As Amended by Committee)**

- Establishes a legislative task force to examine the creation of a single siting agency to oversee a pre-SEPA (State Environmental Policy Act) process for expediting and consolidating the permitting of large manufacturing facilities, energy facilities, and transportation facilities that are of statewide economic significance.
- Modifies the agreement that counties and cities must enter into with the Office of Regulatory Assistance for projects of statewide significance, adding the requirement that the agreement address coordinated and comprehensive review of the project.

HOUSE COMMITTEE ON TECHNOLOGY & ECONOMIC DEVELOPMENT

Majority Report: Do pass as amended. Signed by 11 members: Representatives Morris, Chair; Tarleton, Vice Chair; Smith, Ranking Minority Member; DeBolt, Assistant Ranking Minority Member; Fey, Harmsworth, Magendanz, Nealey, Santos, Wylie and Young.

Minority Report: Do not pass. Signed by 2 members: Representatives Hudgins and Ryu.

Staff: Jasmine Vasavada (786-7301).

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.

Background:

Types of Projects of Statewide Significance.

Since 1997 a statutory process has existed to designate and expedite completion of projects of statewide significance. Projects that may receive the designation include: (1) border crossings that involve private and public investments in conjunction with adjacent states or provinces; (2) development projects with net environmental benefits; (3) development projects furthering commercialization of innovations; (4) private industrial development with investment in manufacturing or research and development; and (5) an aviation biofuels production facility.

Criteria for Designation.

To qualify for designation by the Department of Commerce as a project of statewide significance, a project other than an aviation biofuels facility must meet criteria related to the minimum capital investment, jobs created, county economic circumstances, regional impact, relationship to innovation activities, or net environmental benefit. For a project to qualify based on the size of its capital investment, the necessary capital investment varies depending on the size of the county, from \$5 million for the smallest counties to \$50 million in a county with a population greater than 1 million. For a project to qualify based on jobs created, the requirement in a rural county, defined as a county with a population density of less than 100 persons per square mile or a county smaller than 225 square miles, is 50 jobs. For a project in a non-rural county, the requirement is 100 jobs.

Agreements with the Office of Regulatory Assistance.

Counties and cities with development projects that have received designation as a project of statewide significance must enter into agreements with the Office of Regulatory Assistance (ORA) and local project managers to expedite the processes necessary for the design and construction of projects. The ORA is within the Office of Financial Management and administered by the Governor's Office to help improve the regulatory system and assist citizens, businesses, and project proponents. The ORA must provide facilitation and coordination services to expedite completion of industrial projects of statewide significance. A project of statewide significance is designated as a "fully coordinated project." For such a project, the ORA keeps an up-to-date project management log and coordinates the timing of permit review, assisting in resolving any conflicts or inconsistency among the permit requirements and conditions imposed by the participating agencies. Each participating agency designates a single point of contact. The ORA may enter into cost-reimbursement agreements to recover the reasonable costs incurred in carrying out the project coordination.

Multi-agency Permitting Team.

In 2010 the Legislature directed the ORA to develop an optional multi-agency permitting team for coordinated permitting and integrated regulatory decision-making. The team includes senior-level permitting and regulatory decision-making personnel from the Departments of Ecology, Fish and Wildlife, and Natural Resources, and should incorporate local and federal permitting and regulatory personnel whenever possible. With the exception of some initial costs, the expenses of the team are to be recovered through cost-reimbursement and cost-sharing. The Director of the ORA is authorized to solicit funds to cover initial or non-recoverable costs. An account for solicited funds is created.

The State Environmental Policy Act.

The State Environmental Policy Act (SEPA) requires local governments and state agencies to engage in a detailed review of the environmental impact of any proposed legislation or major action. Under Department of Ecology SEPA rules, certain minor new construction activities are "categorically exempt" from SEPA review. Cities and counties may set their own categorical exemptions if they stay within established floors and ceilings.

Summary of Amended Bill:

Agreements with the Office of Regulatory Assistance.

The Legislature declares that in addition to recognizing certain projects of statewide significance, the Legislature intends to provide a mechanism for local governments and state and federal agencies to perform a coordinated and comprehensive review of such projects. In entering an agreement with the ORA for a project of statewide significance, counties and cities must include an agreement for coordinated and comprehensive review of the project.

Creation of a Joint Legislative Task Force.

A legislative task force is established to examine the creation of a single siting agency empowered to establish guidelines for and implement a pre-SEPA process that expedites and consolidates the permitting of large manufacturing facilities, energy facilities, and transportation facilities that are of statewide economic significance. "Pre-SEPA process" means a process conducted prior to the environmental review process under the SEPA. The task force comprises 12 voting members, with one member appointed by each of the chairs and ranking members of the House of Representatives (House) and Senate transportation committees, the House and Senate committees with jurisdiction over energy issues, the House committee with jurisdiction over environmental issues, and the Senate committee with jurisdiction over economic development issues. The task force must review previous legislative proposals addressing the goal of establishing a comprehensive, expedited permit decision-making process and present any findings and recommendations to the Governor and the appropriate legislative committees, by December 18, 2015.

Amended Bill Compared to Engrossed Bill:

The amended bill makes the following changes:

- removes provisions that changed the criteria used by the Department of Commerce for designating a project of statewide significance;
 - removes the provision requiring cities and counties to enter into an agreement with the ORA that addresses consolidated processing of permit requests; and
 - establishes a legislative task force to examine the creation of a single siting agency empowered to oversee a pre-SEPA process to expedite and consolidate the permitting of large manufacturing facilities, energy facilities, and transportation facilities that are of statewide economic significance.
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Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This legislation has bipartisan support. Many issues were addressed through amendments in the Senate. This bill does not affect the Pit-to-Pier project, which is beyond the environmental impact phase. It makes the Boeing 777x process available to other cities and counties across the state. It can help the local economy continue to flourish, despite declining jobs in certain legacy industries. There is no cost to the state. Washington has limited tools for economic development. The state lacks a large governor's closing fund or tax increment financing. In tough economic times the state has recently eliminated a state tourism agency and Stars (Innovation Research Teams and star researchers) programs. This bill expands an existing tool that has only been used three times.

(In support with concerns) Further definition of the process timelines and costs would be helpful. Costs are ill-defined and more certainty could be given to assist a private sector investor or developer in determining how to calculate these costs.

(Opposed) This is not a bipartisan bill. Speeding up the process and effectively shortening the review time by agencies can limit involvement by the public and review by regulatory agencies. There may be a set of projects of real statewide significance where it makes sense for the Department of Commerce to work to overcome opposition from agencies, but this bill expands the program's applicability to include projects like parking garages and off-ramps. The current regulatory system is working and there has been no clear demonstration of why this is needed. Other proposals under consideration establish good sideboards to allow the Washington Department of Transportation to conduct repairs and do safety upgrades, but this bill would include projects to improve or repair a highway as projects eligible for special treatment. Although promoting renewable energy resources and diversifying the state's energy portfolio are important, the state should not cut corners in permitting such projects. A wind project should not be sited without a thorough review of its impacts. Language in the bill is confusing in that it states that no permitting authority will be changed, but critical laws in the state are not permitting laws but are process laws, such as the SEPA. This language may not keep SEPA safe.

Persons Testifying: (In support) Senator Brown, prime sponsor; Phil Watkins, City of Kennewick; Mike Ennis and Josh Swanson, Association of Washington Business; and Noah Reandeau, Washington Economic Development Association.

(In support with concerns) Andrew Hunt.

(Opposed) Bruce Wisher, Sierra Club; Bryce Yadon, Futurewise; and Darcy Nonemacher, Washington Environmental Council.

Persons Signed In To Testify But Not Testifying: None.