

---

## Environment Committee

---

### ESSB 5994

**Brief Description:** Concerning permits for state transportation corridor projects.

**Sponsors:** Senate Committee on Transportation (originally sponsored by Senators King, Hobbs, Fain, Liias, Litzow, Braun, Schoesler, Parlette, Dammeier, Warnick, Sheldon, Hewitt, Becker, Brown and Bailey).

#### Brief Summary of Engrossed Substitute Bill

- Exempts Washington State Department of Transportation (WSDOT) projects from State Environmental Policy Act environmental review requirements if the project is categorically exempt from the federal National Environmental Policy Act.
- Directs that appeals of WSDOT projects permitted under Growth Management Act (GMA) criterial areas development regulations must be directed to a superior court, unless the WSDOT consents to a local appeals process for initial review.
- Exempts certain WSDOT projects and associated project staging areas from Shoreline Management Act (SMA) permit requirements.
- Requires cities and counties to issue permits to the WSDOT for certain projects within 90 days of the completion of the permit application, to the greatest extent practicable.

**Hearing Date:** 3/26/15

**Staff:** Jacob Lipson (786-7196).

#### **Background:**

##### Washington State Department of Transportation Permitting and Appeals.

The Washington State Department of Transportation (WSDOT) must obtain various local permits associated with many of the transportation projects that it oversees. Consistent with local government regulations, certain appeals of local permitting decisions are directed first to a local hearing examiner or other local appeals venue, including appeals of permitting decisions

---

*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.*

associated with local critical environmental areas ordinances adopted under the Growth Management Act (GMA).

#### The National and State Environmental Policy Acts.

The National Environmental Policy Act (NEPA) establishes a review process to identify environmental impacts of certain decisions by the federal government, including for projects that require the issuance of a permit. Likewise, the State Environmental Policy Act (SEPA) establishes a review process for state and local governments to evaluate environmental impacts from project permits and other government decisions. The NEPA and the SEPA both exempt certain actions from requirements for the submission of an environmental checklist or the development of an environmental impact statement. An agency conducting a SEPA review may adopt a NEPA environmental analysis if the NEPA analysis is consistent with SEPA requirements, including the scope of environmental elements analyzed under the SEPA. Certain WSDOT activities are exempt from NEPA requirements, SEPA requirements, or are exempt from both.

#### Shoreline Management Act Permits.

The Shoreline Management Act (SMA) of 1971 requires that most developments near state shorelines be consistent with shoreline master programs, which are plans developed by local governments for the uses of its shoreline areas. Certain projects, including most projects exceeding a cost or fair market value of \$5,000, require a substantial development permit that is reviewed by the local government and filed with the Department of Ecology (ECY). In certain property-specific circumstances, variance permits or conditional use permits may be issued by a local government that allow for development that is not consistent with the local shoreline master program. Certain other types of development, such as single-family residences and bulkheads to protect single-family residences, are exempt from permit requirements under the SMA. Local governments must submit letters of exemption to the ECY for developments that require federal approval but are exempt from SMA substantial development permit requirements.

#### Engrossed Substitute Senate Bill 5987 (2015).

Engrossed Substitute Senate Bill 5987 (2015), relating to transportation revenue, establishes a Connecting Washington Account (Account) for receipts from certain revenue sources. Expenditures from the Account are authorized for projects or improvements identified as Connecting Washington projects in a transportation appropriations act. The establishment of the Account is also contingent upon the enactment of Senate Bill 5994 and several other 2015 senate bills.

#### **Summary of Bill:**

A variety of changes to WSDOT project permitting processes are applied to Connecting Washington WSDOT projects.

Permits for WSDOT projects that are part of a state highway corridor improvement program and that are permitted under GMA critical areas regulations may only be appealed to superior court, and may not first undergo a local appeals process without the consent of the WSDOT.

Third parties are restricted from appealing WSDOT building permits issued by cities, towns, and counties for temporary project-related buildings as part of the state highway corridor improvement program.

The WSDOT is not required to obtain local zoning permits for staging areas related to state highway construction.

To the greatest extent practicable, cities, towns, and counties must issue permits to the WSDOT for state highway corridor improvement program projects within 90 days of the WSDOT's completion of a permit application. The WSDOT must report annually to the Governor and Legislature regarding city, town, or county permit applications that are not approved within 90 days.

The WSDOT projects that are categorically exempt from the NEPA are also exempt from the SEPA.

Certain WSDOT projects and activities within state highway right-of-ways or ferry terminal areas are exempt from substantial development permits, conditional use permits, variance permits, letters of exemption, and other local government reviews under the SMA. These exempt projects and activities include road, highway, bridge, tunnel, or transit facility projects, as well as the installation of safety structures and equipment. The exemptions do not apply to projects that add travel lanes, expand transportation facilities, or include replacement structures that are not comparable to the original structure. Certain hazardous waste cleanup activities and stormwater improvements in boatyard facilities that are currently exempt from SMA conditional use, variance, and substantial development permit requirements are also exempted from letter of exemption processes or other SMA local government review requirements.

**Appropriation:** None.

**Fiscal Note:** Available.

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