

SENATE BILL REPORT

SB 5994

As of February 18, 2015

Title: An act relating to permits for state transportation corridor projects.

Brief Description: Concerning permits for state transportation corridor projects.

Sponsors: Senators King, Hobbs, Fain, Lias, Litzow, Braun, Schoesler, Parlette, Dammeier, Warnick, Sheldon, Hewitt, Becker, Brown and Bailey.

Brief History:

Committee Activity: Transportation: 2/17/15.

SENATE COMMITTEE ON TRANSPORTATION

Staff: Clint McCarthy (786-7319)

Background: Current law contains various local government permit requirements and procedures applicable to state transportation projects. The Department of Transportation (DOT) does not have the option to appeal permits to superior courts prior to an appeals process heard by local hearing officers or other local appeals processes. Third parties have the right to appeal permits issued by cities, counties, or code cities to DOT. Statute is silent on how long local permitting agencies should take to issue permits. Solid waste or waste is narrowly defined as putrescible and nonputrescible solid and semisolid waste including, but not limited to, the following:

- garbage;
- rubbish;
- ashes;
- industrial wastes;
- swill;
- sewage sludge;
- demolition and construction wastes;
- abandoned vehicles or parts thereof; and
- recycled materials.

Summary of Bill: The term transportation corridor project is defined as a transportation project that is part of the state highway corridor improvement program. Projects permitted under critical areas development regulations may be appealed to a local hearing officer or through any other local appeal process if DOT consents. However, if DOT does not consent,

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permits must be appealed directly to superior court and local agencies may not require that such permits be first appealed to a local hearing examiner through any other local appeal process. The requirement for DOT to obtain local government master use permits, conditional use permits, special use permits or other similar local zoning permits for staging areas related to the construction of local highways is removed. Building permits issued for structures that are temporary in nature and will be removed when no longer necessary to facilitate the project may not be appealed by any party other than the permittee or DOT. This is applicable to the following permitting entities:

- cities or towns;
- counties; and
- code cities.

To the greatest extent practicable, a permit must be issued by a city, county, or code city to DOT within 90 days of DOT completing a permit application.

Normal maintenance, repair, safety upgrades, and signage improvements within the right-of-way of state highway facilities are exempt from shorelines permit requirements. State highway facility maintenance, replacement of structures, minor safety upgrades and signage installation within the right-of way are not subject to shorelines permit requirements. Examples include, but are not limited to, the following:

- pavement rehabilitation;
- luminaire and sign-associated maintenance and replacement;
- bank protection and scour repair;
- stormwater facility maintenance and repair;
- shoulders and slope repair;
- dangerous tree removal; and
- traffic barrier installation.

Projects that are categorically excluded from the National Environmental Policy Act are exempt from the State Environmental Policy Act.

The definition of solid waste and waste is further defined to exclude construction material granted by DOT that does not threaten human or environmental health.

Appropriation: None.

Fiscal Note: Requested on February 13, 2015.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2015.

Staff Summary of Public Testimony: PRO: Projects are expedited and cost less under the act.

CON: Not allowing third parties to appeal permits is a concern. This cuts advocacy organizations and communities from holding contractors accountable.

OTHER: Concerns are voiced that blanket exemptions from the National Environmental Policy Act means the Department is exempt from the State Environmental Policy Act. The Department of Ecology thinks this has been changed through rulemaking. Concerns are voiced that high pH level concrete can leach acid into water. Section 2 of the bill has already been completed. Major projects would be exempt from the shorelines permits. The bill restricts community involvement.

Persons Testifying: PRO: Carolyn Logue, South Sound Chambers of Commerce Legislative Coalition.

CON: Bryce Yadon, Futurewise; Joe Kendo, WA State Labor Council; Bruce Wishart, Sierra Club; Ellicott Dandy, OneAmerica.

OTHER: Paul Roberts, Vice President, Assn. of WA Cities, Councilmember, city of Everett; Lynn Peterson, DOT, Secretary; Tom Clingman, Dept. of Ecology.