

# SENATE BILL REPORT

## SB 6527

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As Reported by Senate Committee On:  
Trade & Economic Development, February 3, 2016

**Title:** An act relating to incentivizing trade and economic development through state environmental policy reviews.

**Brief Description:** Incentivizing trade and economic development through state environmental policy reviews.

**Sponsors:** Senators Brown, Rivers, Angel, Roach, Becker, Parlette, Schoesler, Bailey, Sheldon, Honeyford, Ericksen and Warnick.

**Brief History:**

**Committee Activity:** Trade & Economic Development: 2/03/16 [DP, DNP].

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### SENATE COMMITTEE ON TRADE & ECONOMIC DEVELOPMENT

**Majority Report:** Do pass.

Signed by Senators Brown, Chair; Braun, Vice Chair; Angel and Ericksen.

**Minority Report:** Do not pass.

Signed by Senators Chase, Ranking Minority Member; McCoy.

**Staff:** Jeff Olsen (786-7428)

**Background:** The State Environmental Policy Act (SEPA). The SEPA establishes a review process for state agencies and local governments to identify possible environmental impacts that may result from government actions. The actions include project actions involving decisions on specific projects, such as the issuance of a permit, and nonproject actions involving decisions on policies and plans, including the adoption of land-use plans and regulations. The information collected through the SEPA review process may be used to change a proposal to mitigate likely impacts, or to condition or deny a proposal when adverse environmental impacts are identified.

Provisions of the SEPA generally require a project applicant to complete an environmental checklist. An environmental checklist includes questions about the potential environmental impacts of the proposal. This checklist is then reviewed by the lead agency – one agency identified and responsible for compliance with the procedural requirements of SEPA – to

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determine whether the proposal is likely to have a significant adverse environmental impact. This environmental threshold determination is made by the lead agency and is documented in either a determination of nonsignificance or a determination of significance. A determination of significance requires the preparation of an environmental impact statement (EIS) by the lead agency. The EIS must include detailed information about the environmental impact of the project and any adverse environmental effects that cannot be avoided if the proposal is implemented. The EIS must also include alternatives, including mitigation, to the proposed action.

The National Environmental Policy Act (NEPA). The NEPA establishes a review process that is similar to the SEPA process to determine the environmental impact of federal undertakings. There are three levels of analysis that can be undertaken pursuant to NEPA:

- categorical exclusion determination, which determines if the project meets certain criteria which have been previously determined to indicate that the project will have no significant environmental impact;
- environmental assessment, which requires the preparation of a written assessment of whether the project will have a significant impact on the environment; and
- environmental impact assessment, which is a more detailed evaluation of the proposed project and potential alternatives.

Coastal Zone Management Program (CZMP). The CZMP is a federal program administered by the National Oceanic and Atmospheric Administration, which encourages and assists states to develop and implement CZMPs. States prepare CZMPs that describe their coastal resources and how they are managed. In general, federal or federally permitted activities that affect any land use, water use, or natural resource of a state's coastal zone must comply with the enforceable policies contained in the CZMP.

Clean Water Act. The federal Clean Water Act sets effluent-based limitations on pollutant discharges into navigable waters. The Environmental Protection Agency has delegated federal Clean Water Act authority to the Department of Ecology, which issues a variety of permits under state and federal laws that stipulate conditions for discharges into state waters.

**Summary of Bill:** Legislative findings state that SEPA should not unreasonably delay or prevent economic growth and development of infrastructure. The Legislature reaffirms its desire for job retention and growth and finds that public agencies should coordinate environmental reviews to avoid unnecessary delay and encourage investment in the state.

The governmental entities with responsibility for SEPA review must adopt the scope of analysis contained in the federal review for proposals that have an environmental analysis under NEPA. There are exceptions; for example, if there is a finding that the environmental analysis is inadequate.

A governmental entity responsible for SEPA must complete its environmental review no later than 30 days after publication of a categorical exclusion determination, a finding of no significant impact, or a final EIS that is prepared under NEPA for the same proposal. If the governmental entity fails to comply with the deadline, the SEPA requirements are waived for the proposal. For projects not requiring review under NEPA, the governmental entity must issue a threshold determination no later than 60 days after submitting the completed

application. Environmental reviews of a project must be completed no later than 12 months after submission of a complete application. If the governmental entity fails to comply with the deadline, the SEPA requirements are waived for the proposal. For projects where the governmental entity responsible for SEPA compliance is a city or county, and all or a portion of the funding is provided by the city or county, the time period for complying with SEPA does not begin until the project is referred to another agency for review.

Certifications under the CZMP or Section 401 of the Clean Water Act are exempt from the requirements of SEPA.

**Appropriation:** None.

**Fiscal Note:** Requested on February 1, 2016.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: The bill helps fill in gaps, resolve uncertainties, and create certainty and efficiencies in the permitting process by streamlining the SEPA and NEPA processes. The building construction industry supports clear guidelines for important infrastructure moving forward. Without timelines, we are asking businesses to invest in an open-ended environmental process. While there has been economic recovery since the recession, many rural areas still need recovery. Rail investments are made nationally, and ports need infrastructure to remain competitive and create jobs in our very trade dependent state. British Columbia has conducted timely environmental reviews that combine environmental protection with predictability. Farmers and ranchers are concerned about bringing their products to market. As price takers in the market, increasing costs to build the infrastructure needed to bring their products to market effect the bottom line of their businesses.

CON: The Department of Ecology supports opportunities for efficiencies, however, there are significant concerns with the timelines in the bill. Sometimes harmonizing SEPA and NEPA processes works very well, however, sometimes the scope under NEPA is very narrow and does not work for SEPA. Large complex projects require more time than what is allowed in the bill, and SEPA is a very important tool to review and understand impacts and mitigation. The exclusion of SEPA from the CZMP is problematic. SEPA can ensure federal projects meet the needs of the state.

**Persons Testifying:** PRO: Senator Brown, prime sponsor; Mike Ennis, Association of Washington Business; Lee Newgent, WA State Bldg and Construction Trades Council; Bill Stauffacher, BNSF Railway; Evan Sheffels, Wa Farm Bureau.

CON: Tom Clingman, Department of Ecology.

**Persons Signed In To Testify But Not Testifying:** No one.