

# HOUSE BILL REPORT

## SHB 1086

---

### As Amended by the Senate

**Title:** An act relating to promoting the completion of environmental impact statements within two years.

**Brief Description:** Promoting the completion of environmental impact statements within two years.

**Sponsors:** House Committee on Environment (originally sponsored by Representatives Blake, J. Walsh, Springer, Wilcox and Hargrove).

#### **Brief History:**

##### **Committee Activity:**

Environment: 1/17/17, 2/2/17 [DPS].

##### **Floor Activity:**

Passed House: 3/2/17, 98-0.

Senate Amended.

Passed Senate: 4/11/17, 44-5.

#### **Brief Summary of Substitute Bill**

- Directs lead agencies to aspire to complete environmental impact statements (EISs) under the State Environmental Policy Act within two years of making a threshold determination that an EIS is required.
- Directs lead agencies that miss the aspirational two-year deadline to submit a report to the Legislature explaining the reason the EIS is late, an estimate of when the EIS will be completed, and a plan of action to ensure timely completion of future EISs.

---

### HOUSE COMMITTEE ON ENVIRONMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Fitzgibbon, Chair; Peterson, Vice Chair; Shea, Ranking Minority Member; Taylor, Ranking Minority Member; Dye, Fey, Kagi and McBride.

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

---

*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:**

The State Environmental Policy Act (SEPA) establishes a review process for state and local governments to identify environmental impacts that may result from governmental decisions, such as the issuance of permits or the adoption of land use plans. The SEPA environmental review process involves a project proponent or the lead agency completing an environmental checklist to identify and evaluate probable environmental impacts. If an initial review of the checklist and supporting documents results in a determination that the government decision has a probable significant adverse environmental impact (threshold determination), the proposal must undergo a more comprehensive environmental analysis in the form of an environmental impact statement (EIS). Under SEPA, a government agency is designated as the lead agency, and in that role is assigned responsibility for complying with SEPA's procedural requirements, including making a threshold determination and preparing the EIS when one is required.

Administrative rules adopted to implement the SEPA direct lead agencies to commence EIS preparation as close as possible to the time the agency is developing or is presented with the proposal, so that the EIS can be included in the final recommendations or reports of the lead agency for the associated government decision.

**Summary of Substitute Bill:**

Lead agencies undertaking a State Environmental Policy Act (SEPA) review are directed to aspire to finish an environmental impact statement (EIS) as expeditiously as possible without compromising the integrity of the analysis. For complex government decisions, the lead agency must aspire to finish an EIS within 24 months of making a threshold determination that an EIS is needed, and to finish in far less time than 24 months for government decisions with narrower and more easily identified environmental impacts.

If a lead agency fails to meet the 24 month aspirational time limit, the agency must submit a report to the Legislature within 30 days of missing the time limit. The report must describe any mitigating circumstances prompting the delay, an estimate of when the EIS will be completed, and a plan of action for the lead agency to meet time limits when completing an EIS in the future.

Upon the agreement of a lead agency and project proponent, the EIS for a project proposal is not subject to the two-year aspirational time limit and the lead agency is not required to submit a report to the Legislature for failing to meet the time limit.

The aspirational time limit does not create civil liability or a new cause of action against a lead agency.

**EFFECT OF SENATE AMENDMENT(S):**

The Senate amendment requires the Department of Ecology to report biennially to the Legislature regarding the average and range of time taken by state agencies and local governments to complete Environmental Impact Statements (EIS) under the State

Environmental Policy Act (SEPA), rather than requiring SEPA lead agencies to report directly to the Legislature whenever an EIS takes longer than 24 months to complete.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) A similar timeline is established for environmental reviews in British Columbia. Establishing a reporting requirement will help the Legislature and others keep attuned to the length of time that lead agencies take to complete State Environmental Policy Act (SEPA) reviews. The time limits are aspirational, and don't result in punitive sanction for failure to complete an environmental impact statement (EIS) within two years.

(Opposed) Some EISs have a valid reason to take longer than two years to complete. If the project proponent and lead agency agree that a project should not be subject to a set timeline, they should not be held to a two-year timeline standard.

**Persons Testifying:** (In support) Representative Blake, prime sponsor.

(Opposed) Bryce Yadon, Futurewise.

**Persons Signed In To Testify But Not Testifying:** None.