

# HOUSE BILL REPORT

## SB 5613

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### As Reported by House Committee On: Local Government

**Title:** An act relating to the authority of counties to vacate a county road that abuts on a body of water if the county road is hazardous or creates a significant risk to public safety.

**Brief Description:** Concerning the authority of counties to vacate a county road that abuts on a body of water if the county road is hazardous or creates a significant risk to public safety.

**Sponsors:** Senators Rivers, Schoesler, Becker, Brown, Short, Warnick, Wilson, L. and Fortunato.

#### **Brief History:**

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

Local Government: 3/15/19, 3/20/19 [DPA].

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

- Allows a county to vacate a county road abutting a body of water in certain public safety circumstances.

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### HOUSE COMMITTEE ON LOCAL GOVERNMENT

**Majority Report:** Do pass as amended. Signed by 6 members: Representatives Pollet, Chair; Peterson, Vice Chair; Kraft, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Goehner and Senn.

**Staff:** Yvonne Walker (786-7841).

#### **Background:**

A road or street vacation removes and terminates the public interest in a right-of-way and extinguishes the easement for public travel represented by the right-of-way.

When a county road, or any part of it, is considered useless, the board of county commissioners (board) may, by resolution, declare its intention to vacate and abandon all or a

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part of the road and direct the county road engineer to report on the vacation and abandonment. Alternatively, owners of the majority of the frontage on any county road or portion of road may petition the board to vacate and abandon all or a part of the road. The petition must show the land owned by each petitioner and declare that the county road or portion of road is useless and the public will benefit from its vacation and abandonment.

When directed by the board, the county road engineer must examine all or a portion of a county road proposed to be vacated and abandoned and report the county road engineer's opinion as to:

- whether the road should be vacated and abandoned;
- whether the road is in use or has been in use;
- the condition of the road;
- whether it is advisable to preserve it for the county road system in the future; and
- whether the public will be benefited by the vacation and abandonment.

The board must schedule a hearing to consider the engineer's report, together with any evidence for, or objection against, vacation and abandonment. If the county road is found useful as a part of the county road system, it cannot be vacated. If it is found not useful and the public will benefit by the vacation, the board may vacate the road or portion of road.

However, no county may vacate a county road or portion of road which abuts a body of water unless the purpose of the vacation is to enable a public authority to acquire the vacated property for:

- port purposes;
- boat moorage or launching sites;
- for park, viewpoint, recreational, educational or other public purposes; or
- unless the property is zoned for industrial uses.

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

Until December 31, 2023, a county may vacate all or part of a county road that abuts on a body of salt or freshwater for the protection of public safety when the property is located in a county west of the crest of the Cascade Mountains and is bordered by the Columbia River with a population over 450,000, if the county determines that:

- the road has been used as an access point to trespass onto private property;
- trespassing has caused loss of human life and that public use of the county road creates an ongoing risk to public safety; and
- public access to the same body of water abutting the county road is available at not less than three public access sites within 2 miles in any direction of the terminus of the road subject to vacation.

### **Amended Bill Compared to Original Bill:**

A provision is added to limit the county and circumstances in which a road can be vacated. It solely authorizes a certain county, until December 31, 2023, to vacate a road that abuts a

body of water located in a county west of the crest of the Cascade Mountains and bordered by the Columbia River with a population over 450,000, if the county determines that:

- the road has been used as an access point to trespass onto private property;
- trespassing has caused loss of human life and that public use of the county road creates an ongoing risk to public safety; and
- public access to the same body of water abutting the county road is available at not less than three public access sites within 2 miles in any direction of the terminus of the road subject to vacation.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**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) Last year, some felt that this bill would limit access for recreational water users but there are multiple other legal access points where a person can gain access to the water. Lancaster Road, which this bill is addressing, has a sad history because there is a railroad bridge that cuts through the private property where many people have died. This particular road is entirely surrounded by a farm owned by a private owner.

Since 2004 there have been multiple individuals as well as an entire family killed on this railroad near this road. The Burlington Northern Santa Fe Corporation (BNSF) put up a gate so that there would no longer be access to the bridge. However, since the road is still open, people can continue to drive down the road, park their cars and crawl over the gate. This is a public safety bill and is a collaborative effort on behalf of the county, BNSF Railway, Clark County Fire and Rescue, and the private property owner who owns the land abutting the road and the railroad. The intent of this bill is to allow the county to have the opportunity to vacate the road but in a very limited and narrow circumstance.

(Opposed) This railroad bridge was constructed in 1908 and the county road was constructed in 1928. In 1932 there was an effort to vacate this or a nearby road in the same area. The 1932 petition stated this was the only county road between the mouth of the Lewis River and Beacon Landing and is of public use. This bill amends a statute that has been in place for years and it specifically protects our streets in Washington that dead end on bodies of water.

For 25 years, Friends of Street Ends have been working with Seattle to protect Seattle's 142 shoreline street ends. The opposition to this bill is to protect access to Washington's public waterways. Washington has a long history of protecting public access lands and waters and working with land owners to preserve access and public rights of way. This bill allows vacation of roads next to mainline railroad bridges and would put street ends at risk. It would create an unwarranted exclusion to the state's access laws that would allow landowners to shut down access to local roads terminating at waterways. Restricting public access to

Washington's waterways is unjustified and would complicate additional points of access in the future.

**Persons Testifying:** (In support) Senator Rivers, prime sponsor; David Morgan; and Bill Clarke.

(Opposed) Reed Waite; Karen Daybert, Friends of Street Ends; and Jesse Salsberry, Backcountry Hunters and Anglers.

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