
Transportation Committee

HB 2787

Brief Description: Concerning permitting for the replacement of certain elements of the state route number 520 Evergreen Point bridge.

Sponsors: Representatives Clibborn, Armstrong, Moeller, Eddy, Lias, Sells, Seaquist, Springer, Hunter and Maxwell; by request of Department of Transportation.

Brief Summary of Bill

- Establishes construction authorization and conditioning provisions for the replacement of the floating span and east approach of the State Route 520 Evergreen Point Bridge.
- Declares an emergency.

Hearing Date: 2/24/12

Staff: David Munnecke (786-7315).

Background:

Shoreline Management Act - General Provisions.

Policy.

The Shoreline Management Act of 1971 (SMA) governs uses of state shorelines. The SMA enunciates state policy to provide for shoreline management by planning for and fostering "all reasonable and appropriate uses." The SMA prioritizes public shoreline access and enjoyment and creates preference criteria listed in prioritized order that must be used by state and local governments in regulating shoreline uses.

Regulations, Permits, and Delayed Authorizations for Commencing Construction.

The SMA involves a cooperative regulatory approach between local governments and the state. At the local level, the SMA regulations are developed in city and county shoreline master programs (master programs) that regulate land use activities in shoreline areas of the state. Each

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local government is charged with establishing a program for the administration and enforcement of a shoreline permit system. While the SMA specifies standards for local governments to review and approve permit applications, the administration of the permit system is performed exclusively by the local government. Local governments, however, must notify the Department of Ecology (DOE) of all SMA permit decisions.

The SMA requires a property owner or developer to obtain a substantial development permit for substantial developments within shoreline areas. "Substantial developments" are defined to include both developments with total cost or fair market value exceeding \$5,718 and developments materially interfering with normal public shoreline or water use. Certain exemptions to the substantial development permit requirement are specified in statute.

The permit review and approval standards generally specify that a local permit system must include provisions to assure that construction on a project may not begin or be authorized until 21 days from the date of filing, which is defined as the date of receipt by the DOE of the local government's decision, or until all review proceedings are terminated.

Appeals and Timing - Permits and Construction.

Appeals of substantial development permit decisions and the DOE shoreline rules and regulations are reviewed by the Shorelines Hearings Board (SHB). Any person aggrieved by the granting, denying, or rescinding of a shoreline permit may seek review from the SHB by filing a petition for review within 21 days of the date of receipt of the decision. The DOE or the Washington state Attorney General may also obtain review of any final decision granting a permit, or granting or denying an application for a permit issued by a local government by filing a written petition with the SHB and the appropriate local government within 21 days of the date the final decision was filed. Final decisions of the SHB may be appealed to superior court.

If a permit has been granted by a local government, the SMA specifies that construction may, with limited exceptions, be commenced 30 days after the date of an appeal of a decision of the SHB if:

- the granting of the permit is appealed to the SHB within 21 days of the date of filing;
- the SHB approves the granting of the permit or a portion of the substantial development for which the local government issued the permit; and
- an appeal for judicial review of the SHB's decision is filed in accordance with requirements of the Administrative Procedure Act.

Permittees beginning construction on a project prior to the termination of all review proceedings, however, do so at their own risk.

Floating Bridge Construction.

The Legislature has previously authorized the Washington State Department of Transportation (WSDOT) to proceed with construction of floating bridges while shoreline permits were being appealed. The first instance was in 1980 in regards to the permits for the construction of the Hood Canal floating bridge. The second instance was in 1991 in regards to the permits for the construction of the Interstate 90 floating bridge.

Evergreen Point Bridge - Replacement, Permits, and Appeals.

The Governor Albert D. Rosellini Bridge - Evergreen Point (Evergreen Point Bridge) spans the 1.44 mile distance between Interstate 5 (I-5) in the City of Seattle and the City of Medina on the eastern shore of Lake Washington. Originally opened to traffic in 1963, the four-lane floating bridge currently serves approximately 115,000 vehicles each day.

In 2007 the Legislature authorized the WSDOT to replace the existing bridge with a new floating structure. The replacement bridge, which is scheduled to open to traffic by the end of 2014, will have six lanes of traffic, including two general-purpose lanes, one transit/high occupancy vehicle (HOV) lane in each direction, and the ability to accommodate future light rail. In August 2011 the Federal Highway Administration issued the record of decision for the project, and construction on the replacement bridge is scheduled to begin in 2012. The program budget for the State Route (SR) 520 Bridge replacement and HOV Program, as set by the Legislature in 2009, is \$4.65 billion.

Numerous state and federal permits are required for the construction of the replacement bridge. With respect to permits required under the SMA, on January 17, 2012, the City of Seattle issued conditional approvals for the I-5 to Medina shoreline permit applications. On February 8, 2012, the Coalition for a Sustainable 520 (Coalition) filed an appeal of shoreline permits issued by Seattle with the SHB. In accordance with the SMA, the Coalition's actions have resulted in a stay of construction.

Summary of Bill:

New construction authorization and conditioning provisions for the replacement of the floating span and east approach of the SR 520 Evergreen Point Bridge are established.

Construction Authorization.

Construction may begin 21 days after the date the WSDOT receives the local government's permit decision, if the local government decision pertains to any permit or a decision to issue any permit to the WSDOT for the replacement of the floating span and east approach of the SR 520 Evergreen Point Bridge on or adjacent to Lake Washington. A substantial development permit granted for the floating span and east approach is deemed to have been granted on the date that the local government's decision to grant the permit is issued.

The construction authorization applies to only those elements of the floating span and east approach that do not preclude the WSDOT's selection of a four-lane alternative for SR 520 between Interstate 5 and the City of Medina. Examples of activities the authorization applies to include:

- the installation of cofferdams, footings, retaining walls, and access facilities to support the construction of the east approach and the east end for the floating span;
- staging areas and anchors for pontoon assembly; and
- anchors, shafts, columns, and cross-beams to support the west end of the floating span.

Conditioning Provisions.

The construction authorization does not preclude the Shorelines Hearings Board from concluding that the project or any element of the project is inconsistent with the goals and policies of the SMA or the applicable master program. Upon reaching this conclusion, the SHB may require the

application of further conditions to applicable permits, an impact mitigation payment by the WSDOT to a fund that would be used to pay for work to mitigate project impacts, or both.

If the SHB determines that an impact mitigation payment is justified, the SHB must satisfy a public hearing requirement and establish a payment amount that is necessary to provide additional mitigation for project impacts. The payment amount may not exceed 1 percent to the cost of the project or project phase that is authorized by the applicable permits.

General Limitations and Expiration.

The construction authorization and conditioning provisions expire on June 30, 2014, and apply to appeals filed after January 1, 2012.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.