S-1964.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SUBSTITUTE SENATE BILL 5994**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 64th Legislature 2015 Regular Session**

**By** Senate Transportation (originally sponsored by Senators King, Hobbs, Fain, Liias, Litzow, Braun, Schoesler, Parlette, Dammeier, Warnick, Sheldon, Hewitt, Becker, Brown, and Bailey)

AN ACT Relating to permits for state transportation corridor projects; amending RCW 90.58.355 and 70.95.030; adding a new section to chapter 36.70A RCW; adding a new section to chapter 47.01 RCW; adding new sections to chapter 35.21 RCW; adding new sections to chapter 36.01 RCW; adding new sections to chapter 35A.21 RCW; adding a new section to chapter 43.21C RCW; providing an effective date; providing a contingent effective date; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  A new section is added to chapter 36.70A RCW to read as follows:

(1) As used in this section, "transportation corridor project" means a transportation project that is part of a state highway corridor improvement program.

(2) For transportation corridor projects, if the project is permitted under critical areas development regulations adopted under this chapter, permits may be appealed to a local hearing officer or through any other local appeal process if the department of transportation consents, but if the department of transportation does not consent, 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 or through any other local appeal process.

NEW SECTION. **Sec.**  A new section is added to chapter 47.01 RCW to read as follows:

It is the intent of the legislature to clarify existing law such that, when exercising its authority under RCW 47.01.260, the department is not required 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 state highways. This section may not be construed as changing or otherwise altering existing law.

NEW SECTION. **Sec.**  A new section is added to chapter 35.21 RCW to read as follows:

If a building permit is issued by a city or town as part of a transportation corridor project, as defined in section 1 of this act, for a building that is temporary in nature and will be removed when no longer necessary to facilitate the project, the building permit may not be appealed by any party other than the permittee or the department of transportation. If an appeal is filed, a third party may intervene in such proceedings by petition.

NEW SECTION. **Sec.**  A new section is added to chapter 36.01 RCW to read as follows:

If a building permit is issued by a county as part of a transportation corridor project, as defined in section 1 of this act, for a building that is temporary in nature and will be removed when no longer necessary to facilitate the project, the building permit may not be appealed by any party other than the permittee or the department of transportation. If an appeal is filed, a third party may intervene in such proceedings by petition.

NEW SECTION. **Sec.**  A new section is added to chapter 35A.21 RCW to read as follows:

If a building permit is issued by a code city as part of a transportation corridor project, as defined in section 1 of this act, for a building that is temporary in nature and will be removed when no longer necessary to facilitate the project, the building permit may not be appealed by any party other than the permittee or the department of transportation. If an appeal is filed, a third party may intervene in such proceedings by petition.

NEW SECTION. **Sec.**  A new section is added to chapter 35.21 RCW to read as follows:

(1) To the greatest extent practicable, a permit must be issued by a city or town to the department of transportation for a transportation corridor project, as defined in section 1 of this act, within ninety days of the department completing the permit application.

(2) The department of transportation shall report annually to the governor and the legislature regarding any permit applications that take longer than ninety days to approve.

NEW SECTION. **Sec.**  A new section is added to chapter 36.01 RCW to read as follows:

(1) To the greatest extent practicable, a permit must be issued by a county to the department of transportation for a transportation corridor project, as defined in section 1 of this act, within ninety days of the department completing the permit application.

(2) The department of transportation shall report annually to the governor and the legislature regarding any permit applications that take longer than ninety days to approve.

NEW SECTION. **Sec.**  A new section is added to chapter 35A.21 RCW to read as follows:

(1) To the greatest extent practicable, a permit must be issued by a code city to the department of transportation for a transportation corridor project, as defined in section 1 of this act, within ninety days of the department completing the permit application.

(2) The department of transportation shall report annually to the governor and the legislature regarding any permit applications that take longer than ninety days to approve.

**Sec.**  RCW 90.58.355 and 2012 c 169 s 1 are each amended to read as follows:

Requirements to obtain a substantial development permit, conditional use permit, ((~~or~~)) variance, letters of exemption, or other review conducted by a local government to implement this chapter shall not apply to ((~~any person~~)):

(1) Any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW. The department must ensure compliance with the substantive requirements of this chapter through the consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or during the department-conducted remedial action, through the procedures developed by the department pursuant to RCW 70.105D.090; ((~~or~~))

(2) Any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit. The department must ensure compliance with the substantive requirements of this chapter through the review of engineering reports, site plans, and other documents related to the installation of boatyard storm water treatment facilities; or

(3)(a) The following department of transportation projects and activities if they meet the conditions of (b) of this subsection:

(i) Maintenance, repair, reconstruction, restoration, retrofitting, or replacement of any road, highway, bridge, tunnel, or transit facility such as a ferry dock or bus transfer station, including ancillary transportation facilities such as pedestrian/bicycle paths and bike lanes;

(ii) Construction or installation of safety structures and equipment, including pavement marking, freeway surveillance and control systems, railroad protective devices not including grade separated crossings, grooving, glare screen, safety barriers, energy attenuators, and hazard/danger tree removal.

(b) Activities exempted under this subsection (3) must occur within the right-of-way of state highway facilities or the lease or ownership area for ferry terminals. For purposes of this subsection, replacement of structures and construction or installation of safety structures and equipment do not include new travel lanes or the expansion of transportation facilities. The replacement of structures must be comparable to the original structure, including size, shape, configuration, and location, except to meet current engineering standards or environmental permit requirements.

NEW SECTION. **Sec.**  A new section is added to chapter 43.21C RCW to read as follows:

Washington state department of transportation projects that are categorically excluded under the national environmental policy act (42 U.S.C. Sec. 4321 et seq.) are exempt from this chapter.

**Sec.**  RCW 70.95.030 and 2010 1st sp.s. c 7 s 86 are each amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

(1) "City" means every incorporated city and town.

(2) "Commission" means the utilities and transportation commission.

(3) "Composted material" means organic solid waste that has been subjected to controlled aerobic degradation at a solid waste facility in compliance with the requirements of this chapter. Natural decay of organic solid waste under uncontrolled conditions does not result in composted material.

(4) "Department" means the department of ecology.

(5) "Director" means the director of the department of ecology.

(6) "Disposal site" means the location where any final treatment, utilization, processing, or deposit of solid waste occurs.

(7) "Energy recovery" means a process operating under federal and state environmental laws and regulations for converting solid waste into usable energy and for reducing the volume of solid waste.

(8) "Functional standards" means criteria for solid waste handling expressed in terms of expected performance or solid waste handling functions.

(9) "Incineration" means a process of reducing the volume of solid waste operating under federal and state environmental laws and regulations by use of an enclosed device using controlled flame combustion.

(10) "Inert waste landfill" means a landfill that receives only inert waste, as determined under RCW 70.95.065, and includes facilities that use inert wastes as a component of fill.

(11) "Jurisdictional health department" means city, county, city-county, or district public health department.

(12) "Landfill" means a disposal facility or part of a facility at which solid waste is placed in or on land and which is not a land treatment facility.

(13) "Local government" means a city, town, or county.

(14) "Modify" means to substantially change the design or operational plans including, but not limited to, removal of a design element previously set forth in a permit application or the addition of a disposal or processing activity that is not approved in the permit.

(15) "Multiple-family residence" means any structure housing two or more dwelling units.

(16) "Person" means individual, firm, association, copartnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.

(17) "Recyclable materials" means those solid wastes that are separated for recycling or reuse, such as papers, metals, and glass, that are identified as recyclable material pursuant to a local comprehensive solid waste plan. Prior to the adoption of the local comprehensive solid waste plan, adopted pursuant to RCW 70.95.110(2), local governments may identify recyclable materials by ordinance from July 23, 1989.

(18) "Recycling" means transforming or remanufacturing waste materials into usable or marketable materials for use other than landfill disposal or incineration.

(19) "Residence" means the regular dwelling place of an individual or individuals.

(20) "Sewage sludge" means a semisolid substance consisting of settled sewage solids combined with varying amounts of water and dissolved materials, generated from a wastewater treatment system, that does not meet the requirements of chapter 70.95J RCW.

(21) "Soil amendment" means any substance that is intended to improve the physical characteristics of the soil, except composted material, commercial fertilizers, agricultural liming agents, unmanipulated animal manures, unmanipulated vegetable manures, food wastes, food processing wastes, and materials exempted by rule of the department, such as biosolids as defined in chapter 70.95J RCW and wastewater as regulated in chapter 90.48 RCW.

(22) "Solid waste" or "wastes" means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, and recyclable materials. "Solid waste" or "wastes" excludes construction material generated by the department of transportation that does not threaten human or environmental health.

(23) "Solid waste handling" means the management, storage, collection, transportation, treatment, utilization, processing, and final disposal of solid wastes, including the recovery and recycling of materials from solid wastes, the recovery of energy resources from solid wastes or the conversion of the energy in solid wastes to more useful forms or combinations thereof.

(24) "Source separation" means the separation of different kinds of solid waste at the place where the waste originates.

(25) "Vehicle" includes every device physically capable of being moved upon a public or private highway, road, street, or watercourse and in, upon, or by which any person or property is or may be transported or drawn upon a public or private highway, road, street, or watercourse, except devices moved by human or animal power or used exclusively upon stationary rails or tracks.

(26) "Waste-derived soil amendment" means any soil amendment as defined in this chapter that is derived from solid waste as defined in this section, but does not include biosolids or biosolids products regulated under chapter 70.95J RCW or wastewaters regulated under chapter 90.48 RCW.

(27) "Waste reduction" means reducing the amount or toxicity of waste generated or reusing materials.

(28) "Yard debris" means plant material commonly created in the course of maintaining yards and gardens, and through horticulture, gardening, landscaping, or similar activities. Yard debris includes but is not limited to grass clippings, leaves, branches, brush, weeds, flowers, roots, windfall fruit, vegetable garden debris, holiday trees, and tree prunings four inches or less in diameter.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2015.

NEW SECTION. **Sec.**  This act takes effect only if chapter ... (Senate Bill No. ... (S-1301/15)), Laws of 2015 is enacted by June 30, 2015.

**--- END ---**