S-3566.2

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

**SENATE BILL 6172**

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

**State of Washington 64th Legislature 2016 Regular Session**

**By** Senators Ericksen and Benton

AN ACT Relating to preliminary certifications under section 401 of the federal clean water act; adding a new section to chapter 90.48 RCW; and creating a new section.

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

NEW SECTION. **Sec.**  The legislature finds that the public benefits from timely decisions made by the department of ecology under the federal clean water act. The legislature finds that the department of ecology should make preliminary certifications for projects under section 401 of the federal clean water act. The legislature intends that, by allowing preliminary certifications to be made, the public will avoid disadvantageous situations in which projects that otherwise comply with federal, state, and local regulations are delayed by section 401 review.

NEW SECTION. **Sec.**  A new section is added to chapter 90.48 RCW to read as follows:

(1) When the department reviews a project for certification under section 401 of the federal clean water act (33 U.S.C. Sec. 1341), the department must issue a preliminary version of the certification no later than thirty days after receiving a complete application for the project. A preliminary certification issued under this subsection must state whether the department considers the project to be eligible for certification under section 401 of the federal clean water act (33 U.S.C. Sec. 1341), based on the information contained in the application.

(2) The department may issue a revised certification for a project under section 401 of the federal clean water act (33 U.S.C. Sec. 1341), after reviewing additional information that was not available at the time a preliminary certification was issued. However, the revised certification may not differ from the preliminary certification under subsection (1) of this section unless the additional information clearly and convincingly demonstrates that the preliminary certification was erroneous upon consideration of all information about the project available to the department. This subsection does not alter any requirement of section 401 of the federal clean water act (33 U.S.C. Sec. 1341) relating to waiver of the certification requirements of that section.

**--- END ---**