

HOUSE BILL REPORT

SHB 1352

As Passed House

January 16, 1998

Title: An act relating to environmental mitigation of transportation projects.

Brief Description: Establishing the advanced environmental mitigation revolving fund.

Sponsors: By House Committee on Transportation Policy & Budget (originally sponsored by Representatives K. Schmidt, Fisher, Buck and Mitchell; by request of Department of Transportation).

Brief History:

Committee Activity:

Transportation Policy & Budget: 2/11/97, 2/24/97 [DPS].

Floor Activity:

Passed House: 3/12/97, 96-0;

Passed House: 1/16/98, 94-0.

HOUSE COMMITTEE ON TRANSPORTATION POLICY & BUDGET

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 26 members: Representatives K. Schmidt, Chairman; Hankins, Vice Chairman; Mielke, Vice Chairman; Mitchell, Vice Chairman; Fisher, Ranking Minority Member; Blalock, Assistant Ranking Minority Member; Cooper, Assistant Ranking Minority Member; Backlund; Buck; Cairnes; Chandler; Constantine; DeBolt; Hatfield; Johnson; Murray; O'Brien; Ogden; Radcliff; Robertson; Romero; Scott; Skinner; Sterk; Wood and Zellinsky.

Staff: Jennifer Joly (786-7305).

Background: During the design and construction of Department of Transportation (DOT) projects, efforts are made to avoid or minimize adverse impacts on the environment. When adverse impacts are unavoidable, they are mitigated during transportation project construction within the project's boundaries (i.e., on-site). For example, when a transportation project requires the filling of a wetland, a new wetland is constructed.

Many times on-site conditions are not favorable for effective mitigation, particularly when transportation project timelines fail to allow for ideal site selection or development. However, other off-site locations within the watershed may be more

suitable or preferable for mitigation. A watershed approach– to environmental mitigation, that allows selection of sites within an entire water resource inventory area where a particular transportation project is located promotes enhanced, off-site mitigation.

Opportunities to share mitigation sites with other jurisdictions are lost since environmental mitigation is tied directly to project funds. Development of prospective, cost-effective, multijurisdictional environmental facilities is not possible when funds are appropriated for specific projects.

Where feasible, the DOT seeks to finance the acquisition and development of environmental mitigation sites prior to construction of specific transportation projects. To that end the DOT seeks to establish an advanced environmental mitigation revolving fund, patterned after the DOT's right of way revolving account. Using this fund, environmental mitigation sites needed in the foreseeable future would be purchased and developed with monies from the revolving fund. Then, when construction of a transportation project requiring use of the mitigation site begins, the fund would be replenished using dollars appropriated for the subject project.

Summary of Bill: The environmental mitigation revolving fund, which is not tied to programmed transportation projects, is created to finance the acquisition and development of environmental mitigation sites in advance of transportation project design and construction. To qualify for advanced environmental mitigation, DOT projects must be approved by the State Transportation Commission as part of the state's six-year plan or be included in the state highway system plan.

Advanced environmental mitigation, including the acquisition and development of mitigation sites, may be conducted in partnership with federal, state or local government agencies; tribal governments; interest groups; or private parties.

When the DOT or any of its transportation partners proceeds with the construction of a transportation project that will use an advanced environmental mitigation site, the advanced environmental mitigation revolving fund must be reimbursed with monies appropriated for the use of the site.

Every two years DOT must report to the Legislative Transportation Committee and the Office of Financial Management regarding (1) which advanced environmental mitigation sites were purchased and why; (2) what expenditures were made for the parcels; and (3) estimated savings.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Establishment of the advanced environmental mitigation revolving account will permit the DOT to save money by (1) permitting DOT to partner with other jurisdictions to establish mutually beneficial mitigation sites; (2) reducing mitigation ratios because of the maturity of the sites; and (3) reducing land costs by allowing DOT to shop for ideal mitigation sites and avoid using its power of eminent domain. Additionally, the account will allow the DOT to create a more predictable process. The account could be used for many types of environmental mitigation, including wetland banking, storm water facilities, and hazardous waste clean-up.

Testimony Against: This bill fails to reference the sequencing approach to mitigation; for example, prior to mitigation, the DOT should seek to avoid impacting the environment. The bill fails to establish long-term monitoring mechanisms for the mitigation sites, and it does not delineate specific performance standards. The public works trust fund, which was created to fund repairs to local governments' infrastructure, should not be used to fund the establishment of the advanced environmental mitigation revolving account. If 30 percent of the current DOT budget is used for environmental activities, those transportation funds should be used to establish this account.

Testified: Jerry Alb, Department of Transportation (pro); Duke Schaub, Associated General Contractors of Washington (pro/with concerns); Steve Carley, Department of Ecology (concerns); Laura Hitchcock, Sierra Club (pro/with concerns); Joe LaTourrelle, Rivers Council of Washington (pro); Pete Butkus, Department of Community, Trade and Economic Development/Public Works Committee (pro/with concerns); and Dick Ducharme, Utility Contractors Association of Washington (pro/with concerns).