

2 **SB 6188** - S AMD 410

3 By Senators Prentice and Swecker

4 ADOPTED 05/22/01

5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. **Sec. 1.** LEGISLATIVE INTENT AND FINDINGS. The  
8 legislature finds that the public health and safety of its citizens,  
9 the natural resources, and the environment are vital interests of the  
10 state that need to be protected and preserved. The legislature further  
11 finds that the safety of the traveling public and the state's economic  
12 well-being are vital interests that depend upon the development of  
13 cost-effective and efficient transportation systems planned, designed,  
14 constructed, and maintained through expedited permit decision-making  
15 processes.

16 It is the intent of the legislature to achieve transportation  
17 permit reform that expedites the delivery of statewide significant  
18 transportation projects through a streamlined approach to environmental  
19 permit decision making. To optimize the limited resources available  
20 for transportation system improvements and environmental protection,  
21 state regulatory and natural resource agencies, public and private  
22 sector interests, Indian tribes, and the department of transportation  
23 must work cooperatively to establish common goals, minimize project  
24 delays, develop consistency in the application of environmental  
25 standards, maximize environmental benefits through coordinated  
26 investment strategies, and eliminate duplicative processes through  
27 assigned responsibilities of selected permit drafting and compliance  
28 activities between state and federal agencies.

29 Therefore, the transportation permit efficiency and accountability  
30 committee is created. The committee shall integrate current  
31 environmental standards, but may not create new environmental  
32 standards. The committee shall conduct three environmental permit  
33 streamlining pilot projects and create a process to develop general  
34 permits. Additionally, the committee shall seek federal delegation to  
35 the state where appropriate to streamline transportation projects.

1        NEW SECTION.    **Sec. 2.**    DEFINITIONS.    The definitions in this  
2 section apply throughout this chapter unless the context indicates  
3 otherwise.

4        (1) "Assigned responsibilities" means those components of  
5 developing and implementing environmental permits, including but not  
6 limited to, environmental review and assessment, selected permit  
7 drafting, and selected on-site compliance activities that may be  
8 conducted by the department.

9        (2) "Best available information" means the existing sources of  
10 data, including limiting factors analyses required under chapter 77.85  
11 RCW that can be used to make informed decisions regarding environmental  
12 conditions within a watershed.

13        (3) "Best management practices" means currently available and  
14 generally accepted techniques, including new technologies or strategies  
15 that seek to reduce the negative impacts of transportation facilities,  
16 projects, and services on communities and the environment, and promote  
17 more efficient and effective use of transportation facilities.

18        (4) "Committee" means the transportation permit efficiency and  
19 accountability committee created in section 3 of this act.

20        (5) "Least cost planning" means the use of best available  
21 information within a watershed basin applied to transportation decision  
22 making in the planning, permit decision making, and mitigation phases  
23 of a project.

24        (6) "Low-impact development project" means an activity or series of  
25 actions that conform to a comprehensive land use planning and  
26 engineering design approach with a goal of maintaining or restoring  
27 existing natural habitat functions and hydrologic regime of urban and  
28 developing watersheds. These projects incorporate strategic watershed  
29 planning with site-specific management techniques to reduce development  
30 impacts to better replicate natural watershed hydrology and water  
31 quality, while allowing for development or infrastructure  
32 rehabilitation to occur.

33        (7) "One-stop permit decision making" means a coordinated permit  
34 decision-making process that streamlines environmental review and  
35 permit decision making for transportation projects by providing  
36 concurrent, consolidated review by each agency required to review the  
37 project.

38        (8) "Programmatic approach" means a permit or other action that  
39 covers a geographic or statewide area and applies to a variety of

1 projects, activities, or locales. A programmatic approach may allow  
2 actions to proceed without individual approval by each permit decision-  
3 making agency.

4 (9) "Transportation project of statewide significance" means a  
5 surface transportation project or combination of surface transportation  
6 projects, that crosses multiple city or county jurisdictional  
7 boundaries or connects major state destinations in support of the  
8 state's economy and is so designated by the department of  
9 transportation and approved by the transportation committees of the  
10 senate and house of representatives. The transportation committees of  
11 the senate and house of representatives may also jointly designate  
12 these projects. The pilot projects established in this chapter are  
13 examples of transportation projects of statewide significance, but  
14 transportation projects of statewide significance are not limited to  
15 the pilot projects.

16 (10) "Watershed" means a water resource inventory area.

17 NEW SECTION. **Sec. 3.** TRANSPORTATION PERMIT EFFICIENCY AND  
18 ACCOUNTABILITY COMMITTEE. The transportation permit efficiency and  
19 accountability committee is created.

20 (1) The committee consists of nine voting members, including two  
21 members from the house of representatives, one from each of the two  
22 largest caucuses; two senators, one from each of the two largest  
23 caucuses; one member designated by the secretary of transportation; one  
24 member designated by the director of fish and wildlife; one member  
25 designated by the director of ecology; one member designated by the  
26 Association of Washington Cities; and one member designated by the  
27 Washington State Association of Counties. The committee shall elect a  
28 chair from the four legislators appointed to the committee.

29 (2) The committee also includes eight nonvoting members, including  
30 one member designated by the Northwest Indian Fisheries Commission; one  
31 member designated by the Columbia River Intertribal Fisheries  
32 Commission; one member designated by the Consulting Engineers Council  
33 of Washington; one member designated by the Associated General  
34 Contractors of Washington; one member designated by the Association of  
35 Washington Business; one member designated by the Washington State  
36 Building and Construction Trades Council; one member designated by  
37 statewide environmental organizations; and one member designated by the

1 State Fish and Wildlife Commission, to represent the interests of  
2 citizens engaged in fish and wildlife recovery.

3 (3) A representative from the department of natural resources and  
4 representatives from federal regulatory and transportation agencies,  
5 including the Environmental Protection Agency, National Marine  
6 Fisheries Service, United States Army Corps of Engineers, Federal  
7 Highways Administration, and United States Fish and Wildlife Service  
8 must be invited to participate in committee deliberations as nonvoting  
9 members.

10 (4) The committee may create technical subcommittees as needed.  
11 Technical subcommittees created for a specific pilot project or pilot  
12 projects must include, but are not limited to, representatives of local  
13 governments from jurisdictions affected by those projects.  
14 Recommendations made by a technical subcommittee must be approved by a  
15 majority of the voting members of the committee.

16 (5) Nonvoting members will not be compensated but will receive  
17 reimbursement for travel expenses in accordance with RCW 43.03.050 and  
18 43.03.060.

19 (6) The department of transportation office of environmental  
20 affairs shall provide administrative and clerical assistance to the  
21 committee.

22 (7) No vote of the committee may overrule existing statutes,  
23 regulations, or local ordinances.

24 NEW SECTION. **Sec. 4.** COMMITTEE RESPONSIBILITIES. (1) The  
25 committee and its authorized technical subcommittees shall develop a  
26 one-stop permit decision-making process that uses interdisciplinary  
27 review of transportation projects of statewide significance to  
28 streamline and expedite permit decision making. The committee shall  
29 collaborate with appropriate agencies and parties to identify existing  
30 environmental standards, to assess the application of those standards,  
31 and develop an integrated permitting process based upon environmental  
32 standards and best management practices, which may use prescriptive or  
33 performance standards, for transportation projects of statewide  
34 significance that can be applied with certainty, consistency, and  
35 assurance of swift permit action, while taking into account the varying  
36 environmental conditions throughout the state.

1 (2) The committee shall give notice to the legislative authority of  
2 each affected county and city of the projects that are designated as  
3 transportation projects of statewide significance.

4 (3) The committee shall create a technical subcommittee with  
5 representation at a minimum from the department of fish and wildlife,  
6 the department of ecology, and the department of transportation.

7 (a) Within six months from the first meeting of the committee, the  
8 subcommittee shall create a process to develop a programmatic approach  
9 for transportation projects. The committee shall review the  
10 department's construction project list to determine which projects or  
11 activities may be included in the programmatic approach and develop  
12 agreements to cover those projects or activities. At a minimum, this  
13 process must require that decisions on minor variations to the  
14 requirements of a programmatic approach must be provided by the permit  
15 decision-making agencies within twenty-one days of submittal.

16 (b) The technical subcommittee's recommendations must be approved  
17 by a majority of the voting members of the committee.

18 (3) The committee shall explore the development of a consolidated  
19 local permit process.

20 (4) The committee shall develop and prioritize a list of permit  
21 streamlining opportunities, specifically identifying substantive and  
22 procedural duplications and recommendations for resolving those  
23 duplications. The committee shall evaluate current laws and  
24 regulations and develop recommendations on ways to minimize the lapsing  
25 of permits. The committee shall evaluate flexible approaches that  
26 maximize transportation and environmental interests and make  
27 recommendations regarding where those approaches should be implemented.  
28 The committee shall report its findings and recommendations to the  
29 legislature by January 15, 2002.

30 (5) The committee shall undertake the following activities to  
31 develop a watershed approach to environmental mitigation:

32 (a) Develop methodologies for analyzing environmental impacts and  
33 applying compensatory mitigation consistent with a watershed-based  
34 approach before final design, including least cost methodology and low-  
35 impact development methodology;

36 (b) Assess models to collate and access watershed data to support  
37 early agency involvement in transportation planning and reviews under  
38 the national Environmental Policy Act and the State Environmental  
39 Policy Act; and

1 (c) Use existing best available information from watershed planning  
2 efforts, lead entities, regional fisheries enhancement groups, and  
3 other recognized entities as deemed appropriate by the committee, to  
4 determine potential mitigation requirements for projects within a  
5 watershed. Priority consideration should be given to the use of the  
6 state's alternative mitigation policy guidance to best link  
7 transportation mitigation needs with local watershed and lead entity  
8 project lists.

9 (6) The committee shall seek federal delegation to the state where  
10 appropriate to streamline permit processes for transportation projects  
11 of statewide significance including: Delegation of section 404 permit  
12 authority under the Clean Water Act; nonfederal lead agency status  
13 under the federal Endangered Species Act; section 106 cultural resource  
14 designation under the National Historic Preservation Act; and other  
15 appropriate authority that when delegated should result in permit  
16 streamlining.

17 (7) The committee shall develop a dispute resolution process to  
18 resolve conflicts in interpretation of environmental standards and best  
19 management practices, mitigation requirements, permit requirements,  
20 assigned responsibilities, and other related issues by September 1,  
21 2001. The dispute resolution process may not abrogate or supplant any  
22 appeal right of any party under existing statutes. The dispute  
23 resolution process must be designed to include federal agencies if they  
24 choose to participate.

25 (8) The committee shall develop preliminary models and strategies  
26 for agencies to test how best to maximize the environmental investment  
27 of transportation funds on a watershed basis. After agencies test the  
28 models and strategies developed by the committee, the committee shall  
29 evaluate the models and strategies and make recommendations to the  
30 legislature.

31 (9) The committee shall develop a consistent methodology for the  
32 timely and predictable submittal and evaluation of completed plans and  
33 specifications detailing project elements that impact environmental  
34 resources as well as proposed mitigation measures during the  
35 preliminary specifications and engineering phase of project development  
36 and submit information on the consistent methodology to the  
37 legislature.

38 (10) The committee shall provide a summary report to the  
39 legislature on September 15, 2001, and every six months thereafter.

NEW SECTION. **Sec. 5. PILOT PROJECTS.**

(1) The committee shall select and conduct permit reform pilot projects in three locales: (a) Urban near built-out conditions; (b) urban centers serving as crucial rural connectors; and (c) rural corridors critical to statewide economic productivity. The pilot projects must test the assignment of responsibilities such as selected permit drafting and selected compliance activities to the department.

(2) The committee shall commence efforts to apply streamlining lessons learned from the streamlined permit process for the pilot projects to as many other transportation projects of statewide significance as quickly as possible. In reporting to the legislature, the committee may recommend statutory or regulatory changes that would result in streamlining for future projects.

(3) The department and permitting agencies shall apply an interim interdisciplinary permit review process for the pilot projects as set forth in this section. This process must provide coordinated review and approval of permit applications; provide coordinated and consolidated public hearings where required by one or more regulatory agencies under state law; and coordinate timelines for permit decision making.

(4) The committee shall give notice to the legislative authority of each affected county and city of the projects the committee has designated as pilot projects. Each county and city notified must be offered the opportunity to participate in the pilot projects as provided for in this chapter. The department shall provide funding assistance for participation.

(5) The committee shall develop a dispute resolution process to resolve conflicts in interpretation of environmental standards and best management practices, mitigation requirements, permit requirements, assigned responsibilities, the streamlined process for pilot projects set forth in this section, and other related issues by September 1, 2001. The dispute resolution process may not abrogate or supplant any appeal right of any party under existing statutes. The dispute resolution process must be designed to include federal agencies if they choose to participate. The dispute resolution process must be applied to the pilot projects.

(6) The streamlined process for the pilot projects must be based on the following model:

1 (a) Step 1: The department and permitting agencies will agree on  
2 coordination for environmental review under the state and national  
3 environmental policy acts, including document preparation, public  
4 comment opportunities, and timelines.

5 (b) Step 2: For each project, the department will convene a  
6 meeting of all entities with permitting authority to review:

7 (i) The proposed conceptual design for the project and alternative  
8 routes, construction approaches, or mitigation approaches;

9 (ii) All known reviewing entities, permit application and approval  
10 requirements, and timelines; and

11 (iii) A coordinated timeline that allows all statutory requirements  
12 to be met.

13 (c) Step 3: The department will draft all necessary permits to  
14 proceed with the preferred alternative using relevant agreements with  
15 permitting agencies.

16 (d) Step 4: The department will provide public notice in  
17 conformity with all applicable statutes and regulations and allow the  
18 required time for public hearings and written comments.

19 (e) Step 5: The department may revise the draft permits after  
20 consideration of public comments and applying all relevant agreed upon  
21 standards.

22 (f) Step 6: All permits will be disseminated to permitting  
23 agencies for final review. All reviews will be completed within forty-  
24 five days, at which time the permitting agencies will act upon the  
25 permit and either approve the permit or return it without approval.

26 (g) Step 7: If the permit is returned to the department without  
27 approval, the permitting agencies will have one opportunity to identify  
28 errors or omissions and any remaining specific deficiencies or  
29 circumstances not previously addressed by agreements between the  
30 department and agencies that must be met or addressed to be compliant  
31 with applicable law. The department may revise the permit as warranted  
32 and resubmit the permit to the permitting agency, which will have  
33 fifteen days from receipt of the revised permit to take final action.

34 (h) Step 8: Disputes related to permit decisions will be addressed  
35 by the dispute resolution process established by the committee.

36 NEW SECTION. **Sec. 6.** LOCAL GOVERNMENT PARTICIPATION. (1) This  
37 section establishes procedures for city, town, and county governments  
38 to participate in the processes identified in this chapter to provide



1 for coordinated, multijurisdictional environmental review and  
2 permitting decisions for pilot projects and transportation projects of  
3 statewide significance.

4 (2) Each city, town, and county within whose boundaries is located  
5 or partially located one or more projects identified in subsection (1)  
6 of this section, shall elect whether or not to participate in  
7 coordinated processes for environmental review and permitting of those  
8 projects as required in this chapter. If the city, town, or county  
9 elects to participate, it may do so as either a participating entity or  
10 as an assigning entity.

11 (a) If a city, town, or county elects to be considered as a  
12 participating entity, the committee must then include a representative  
13 designated by the city, town, or county in the coordinated review of  
14 the project. The department shall compensate the jurisdiction for  
15 technical support required for participation in the process. The  
16 jurisdiction will also be eligible for reimbursement for permit fees  
17 set by local ordinances and other agreed upon costs associated with the  
18 issuance of project permits.

19 (b) For the purposes of expediting the permit process, a city,  
20 town, or county may elect to assign its permit responsibilities under  
21 chapter 39.34 RCW to the department simultaneously with its  
22 notification to the department as specified in this section. The city,  
23 town, or county electing to assign its responsibilities shall enter  
24 into an agreement with the department to define the local permit  
25 requirements that must be met. Permits issued under the negotiated  
26 agreement are presumed to at least meet local environmental permit  
27 requirements. A city, town, or county choosing to use this option is  
28 eligible for a permit fee set by local ordinances associated with the  
29 issuance of the project permits.

30 (3) If the city, town, or county elects not to participate in the  
31 coordinated processes for the pilot projects designated in this chapter  
32 or transportation projects of statewide significance the department  
33 will issue the locally required permits, when allowable. The  
34 department shall comply with all provisions of city, town, and county  
35 ordinances, and the department permit approval is presumed to at least  
36 meet the local environmental review and permit requirements.

37 (4) Any city, town, or county shall notify the department within  
38 sixty days of receipt of the committee's notification of project  
39 designation, as to whether it elects to be considered as a

1 participating entity or an assigning entity, or elects not to  
2 participate in the coordinated process provided in this chapter.

3 (5) The committee shall review and evaluate the process by which  
4 local governments review and approve pilot projects and transportation  
5 projects of statewide significance, and shall provide recommendations  
6 to the legislature to improve the coordination of the local process  
7 with state and federal reviews as part of the reports required by this  
8 chapter.

9 (6) A city, town, or county is not liable for decisions made by the  
10 department that result in a failure to comply with city, town, or  
11 county ordinances except as provided in the interlocal agreements, and  
12 the department shall defend and answer to any actions or complaints  
13 challenging the validity of permits issued under this section.

14 NEW SECTION. **Sec. 7.** INTERIM PERMIT PROCESS. Until integrated  
15 standards and best management practices have been adopted by the  
16 committee, the department may use the following process for  
17 transportation projects of statewide significance, including projects  
18 requested by a project sponsor.

19 (1) Step 1: Conceptual description. The department will identify  
20 project purposes, the approximate location or alternative locations,  
21 and the federal, state, and local agencies that might have authority to  
22 review and approve the project or portions of it at any such locations,  
23 and a preliminary interagency communication list identifying agencies  
24 that may be interested in the proposed project and, where known,  
25 contact persons in such agencies. If the department is going to  
26 proceed with step 2 or to abandon the project, it may complete step 1  
27 by: (a) Providing a summary of the outcome to all agencies on the  
28 list; and (b) making the summary available to the public.

29 (2) Step 2: Early involvement of other agencies. (a) At any time  
30 after completing step 1, the department will provide notice to all  
31 agencies on the interagency communication list and the public. Within  
32 thirty days, or a longer time if specified by the department, each  
33 state, local, and federal agency will be encouraged to identify:

34 (i) A primary contact person to coordinate future communications  
35 with the department and other interested agencies regarding the  
36 project, or indicate that it has no interest in the project and need  
37 not remain on the project information list;

38 (ii) Its role with respect to the proposed project;

1 (iii) Additional alternative locations the department should  
2 consider and the roles it would expect to have with the project at  
3 those locations;

4 (iv) Other agencies it believes should be added to the list for the  
5 project; and

6 (v) Other information the agency requests the department to  
7 consider.

8 (b) After all state and local agencies on the list have responded,  
9 or at least ten days after expiration of the specified response time,  
10 the department may complete step 2 by: (i) Proposing one or more  
11 conceptual designs for the project at a proposed location and any  
12 alternative locations then being considered; (ii) providing a summary  
13 of the results of step 2, including a statement that the department  
14 considers step 2 to be complete or complete except for specified issues  
15 remaining to be resolved with specified agencies, to all agencies on  
16 the interagency communication list; and (iii) making the summary  
17 available to the public.

18 (3) Step 3: Identify environmental reviews, permits, and other  
19 approvals, application procedures, and decision standards. (a) At any  
20 time after completing step 2, the department may initiate step 3 by  
21 notice to all agencies on the list and the public. This notice may  
22 include a threshold determination on whether an environmental impact  
23 statement (EIS) or supplemental EIS will be prepared or an  
24 environmental checklist and request for comments on what steps should  
25 be taken to comply with chapter 43.21C RCW, the State Environmental  
26 Policy Act (SEPA). Within thirty days, or a longer time if specified  
27 by the department, each state, local, and federal agency will be  
28 encouraged to identify:

29 (i) The procedures under which it expects environmental reviews of  
30 the project to occur;

31 (ii) All permits and other approvals it might require for the  
32 project at each alternative location and conceptual design;

33 (iii) What is needed for the department to file a complete  
34 application for each permit or other approval;

35 (iv) The laws, regulations, ordinances, and policies it would  
36 administer with respect to the project at each alternative location and  
37 conceptual design; and

1 (v) Other information the agency requests the department to  
2 consider in deciding whether, when, where, or how to proceed with the  
3 project.

4 (b) After all state and local agencies on the list have responded,  
5 or at least ten days after expiration of the specified response time,  
6 the department may complete step 3 by:

7 (i) Adopting a list of all environmental reviews, permits, and  
8 other approvals it believes are needed for the project under each  
9 alternative being considered;

10 (ii) Providing all agencies on the list a copy of that list and a  
11 summary of the other results of step 3, including a statement that the  
12 department considers step 3 to be complete or complete except for  
13 specified issues remaining to be resolved with specified agencies; and

14 (iii) Making the list and summary available to the public.

15 (c) The list and summary will be presumed to accurately identify  
16 all environmental reviews, permits, and other approvals needed for each  
17 alternative described, what is required for applications to be  
18 considered complete, and the standards under which applications will be  
19 reviewed and approved, unless an aggrieved agency or person files  
20 objections within thirty days after the list and summary are  
21 distributed.

22 (4) Step 4: Tentative selection of preferred alternative. (a) At  
23 any time after completing step 3, the department may initiate step 4 by  
24 notice to all agencies on the list and the public. This notice may be  
25 accompanied by a scoping notice for an EIS or supplemental EIS or, if  
26 available, be accompanied by a draft EIS or supplemental EIS. It also  
27 may be accompanied by the department's preliminary analysis of the  
28 advantages and disadvantages of each identified alternative, or other  
29 information that may be helpful to other interested agencies and the  
30 public in identifying advantages and disadvantages. Within fourteen  
31 days, or a longer time if specified by the department, each state,  
32 local, and federal agency will be encouraged to identify:

33 (i) For each identified alternative, the specific features it  
34 considers significant with respect to its role in environmental  
35 reviews, permits, or other approvals for the project; the reasons these  
36 features are significant, and any concerns it may have about the  
37 alternative because of potential adverse impacts of these features on  
38 resources or social policies within its jurisdiction;

1 (ii) For each feature for which it raises concerns, recommendations  
2 on how the potential adverse impacts could be avoided, minimized, and  
3 mitigated;

4 (iii) For each feature for which it raises concerns, an assessment  
5 of the relative ranking of each alternative with respect to whether and  
6 to what extent these concerns apply;

7 (iv) Recommendations the agency may have as to which alternatives  
8 should be retained or dropped from further consideration, and ways in  
9 which alternatives might be modified or combined to address its  
10 concerns, recognizing that final decisions can be made only through the  
11 applicable environmental review, permit, and other approval processes  
12 and the agency making them is not bound with respect to any future  
13 decisions it may make regarding the project;

14 (v) Other information the agency requests the department to  
15 consider in deciding whether, when, where, or how to proceed with the  
16 project.

17 (b) After all state and local agencies on the list have responded,  
18 or at least ten days after expiration of the specified response time,  
19 the department may complete step 4 by:

20 (i) Selecting a preferred alternative for purposes of all  
21 environmental reviews, permits, and other approvals needed for the  
22 project;

23 (ii) Providing all agencies on the list a description of the  
24 preferred alternative and summary of the other results of step 4,  
25 including a statement that the department considers step 4 to be  
26 complete or complete except for specified issues remaining to be  
27 resolved with specified agencies; and

28 (iii) Making the preferred alternative and summary available to the  
29 public. The preferred alternative will be identified in all  
30 environmental reviews, permits, and other approvals needed for the  
31 project.

32 (5) Step 5: Completing environmental reviews and applications for  
33 permits and other approvals. (a) At any time after completing step 4,  
34 the department may initiate step 5 by notice to all agencies on the  
35 list and the public. A draft EIS or supplemental EIS, the department's  
36 draft plans and specifications for the project, and draft applications  
37 for some or all permits and other approvals may be provided with the  
38 notice or when they subsequently become available. Within thirty days,

1 or a longer time if specified by the department, each state, local, and  
2 federal agency will be encouraged to identify:

3 (i) All concerns it previously raised regarding the alternative,  
4 and other alternatives still under consideration, that have not been  
5 resolved to its satisfaction;

6 (ii) Additional concerns it may have, particularly concerns  
7 resulting from additional information about the project location and  
8 design, and other new information received since the completion of step  
9 4;

10 (iii) Additional environmental reviews, permits, or other approvals  
11 needed for the preferred alternative because of changes in laws,  
12 regulations, or policies or changes in the project location or design  
13 since these issues were last reviewed in step 3 or 4;

14 (iv) Changes in applicable requirements for complete applications  
15 for permits or other approvals under its jurisdiction since these  
16 issues were last reviewed in step 3 or 4;

17 (v) Other changes in applicable laws, regulations, ordinances, or  
18 policies administered by the agency since these issues were last  
19 reviewed in step 3 or 4;

20 (vi) Whether a draft application proposed by the department for a  
21 permit or other approval from the agency is complete, and if not, what  
22 additional information or other changes are needed for it to be  
23 complete.

24 (b) When all state and local agencies on the list have responded,  
25 or at least ten days after expiration of the specified response time,  
26 the department may complete step 5 by:

27 (i) Completing some or all environmental review processes and draft  
28 application forms for permits and other approvals that it reasonably  
29 believes to be complete;

30 (ii) Providing all agencies on the interagency communication list  
31 with environmental review and application documents and a summary of  
32 the other results of step 5, including a statement that the department  
33 considers step 5 to be complete or complete except for specified issues  
34 remaining to be resolved with specified agencies; and

35 (iii) Making the completed environmental review documents and  
36 summary available to the public. The preferred alternative will be  
37 identified in all environmental reviews, permits, and other approvals  
38 needed for the project.

1 (c) However, if an interested agency or aggrieved person files  
2 objections within fourteen days after the preferred alternative and  
3 summary are distributed, the objections will be addressed in subsequent  
4 environmental reviews and agency decisions regarding the project.

5 (6) Step 6: Completing the environmental review, permit, and other  
6 approval processes. (a) At any time after completing step 5, the  
7 department may initiate step 6 by notice to all agencies on the list  
8 and the public and filing applications for some or all permits and  
9 other approvals needed for the project. Within thirty days, or a  
10 longer time if specified by the department, each state, local, and  
11 federal agency will be encouraged to:

12 (i) Acknowledge receipt of draft environmental review documents  
13 provided to them and provide comments on them;

14 (ii) Acknowledge receipt of final environmental review documents  
15 and determine that they are adequate for purposes of their roles  
16 regarding the project or specify what additional information or changes  
17 are needed for them to be considered adequate;

18 (iii) Acknowledge receipt of each application filed with them and  
19 determine that the application is complete or specify what additional  
20 information or changes are needed for it to be considered complete;

21 (iv) Acknowledge that the applications submitted to them will be  
22 processed under the laws, regulations, ordinances, and policies  
23 previously identified under steps 3, 4, and 5 or specify what changes  
24 have occurred in the governing standards that were in effect on the  
25 date a complete application was filed and thus apply to the project;

26 (v) Identify the significant steps necessary for the agency to  
27 reach a final decision on applications and the estimated time needed  
28 for each step;

29 (vi) Identify ways its decision-making process might be made more  
30 efficient and effective through additional coordination with other  
31 agencies, with any recommendations for such methods as joint  
32 solicitation and review of public comments and jointly conducting  
33 public hearings.

34 (b) It is recognized that step 6 may require an iterative process  
35 with several drafts of various environmental review documents and  
36 applications being considered and revised, and that changes in project  
37 location or design resulting from the permit decisions of one agency  
38 may require revising applications or even reopening permit decisions of  
39 other agencies. All state and local agencies are expected, and federal

1 agencies are encouraged, to communicate and cooperate to minimize the  
2 number of iterations required and make the process as efficient and  
3 effective as possible. Unless significant new information is obtained,  
4 decisions made under step 6 should not be reopened except at the  
5 request of the department, and the most recent information available  
6 under steps 3, 4, and 5 should be presumed accurate until significant  
7 new information becomes available.

8 (c) If all environmental reviews have not been completed and all  
9 permits and other approvals obtained within forty-five days after step  
10 6 is initiated, the department, by notice to all agencies on the list  
11 and the public, may set a deadline for completing reviews and  
12 decisions. At any time after the deadline, the department may  
13 terminate the coordination process of this section as to some or all of  
14 the reviews and decisions that are still not completed.

15 NEW SECTION. **Sec. 8.** DEPARTMENT ORGANIZATION AND ADMINISTRATIVE  
16 ACTIONS. The legislature finds that an essential component of  
17 streamlined permit decision making is the ability of the department to  
18 demonstrate the capacity to meet environmental responsibilities.  
19 Therefore, the legislature directs that:

20 (1) The department may amend its operating practices applicable to  
21 obtaining project permits when:

22 (a) Agreements on standards or best management practices as  
23 appropriate, are reached under section 4 of this act;

24 (b) The committee determines that streamlining procedures and  
25 methodologies implemented for pilot projects consistent with section 5  
26 of this act warrant broader application;

27 (c) The committee determines that the assignment of  
28 responsibilities between regulating agencies and the department is  
29 appropriate for broader use.

30 (2) The department may develop permits for review by permitting  
31 agencies when agreement on the standards and best management practices  
32 covered by such permits have been reached under section 4 of this act.  
33 Regulating agencies shall review permits based upon the agreed upon  
34 standards and timelines developed in section 4 of this act, as well as  
35 any other applicable existing standards.

36 (3) Qualified environmental staff within the department shall lead  
37 the development of all environmental documentation associated with



1 department projects and permit activities in accordance with the  
2 department's project delivery tools.

3 (4) The department shall conduct special prebid meetings for  
4 projects that are environmentally complex. In addition, the department  
5 shall review environmental considerations related to these projects  
6 during the preconstruction meeting held with the contractor who is  
7 awarded the bid.

8 (5) Environmental staff at the department shall conduct field  
9 inspections to ensure that project activities are performed under  
10 permit conditions. These inspectors:

11 (a) May issue stop work orders when compliance with permit  
12 standards are not being met; and

13 (b) For this portion of their job duties, are accountable to the  
14 director of environmental affairs of the department.

15 (6) Failure to comply with a stop work order may result in civil  
16 penalties being assessed against the department and individuals  
17 involved. Willful violation of a stop work notice issued by the  
18 department is subject to civil penalties assessed on the agency as well  
19 as the individuals involved. Persistent violations by the department  
20 may result in loss of permit drafting and program management  
21 responsibilities.

22 NEW SECTION. **Sec. 9.** TRAINING AND COMPLIANCE. The legislature  
23 expects the department to continue its efforts to improve training and  
24 compliance. The department shall:

25 (1) Provide training in environmental procedures and permit  
26 requirements for those responsible for project delivery activities;

27 (2) Require wetland mitigation sites to be designed by a qualified  
28 interdisciplinary team that meets training requirements developed by  
29 the department's environmental affairs office in consultation with the  
30 department of ecology. Environmental mitigation site improvements must  
31 have oversight by environmental staff;

32 (3) Develop an environmental compliance data system to track all  
33 permit conditions;

34 (4) Report all noncompliance activities to applicable agencies of  
35 jurisdiction along with a remedy plan;

36 (5) Fund the departments of ecology, natural resources, and fish  
37 and wildlife, operating under their permit-granting authority to  
38 conduct audits of the department's permit drafting and compliance

1 activities. The department of ecology must collate the audits in an  
2 annual report to the legislature;

3 (6) Seek federal funding for dedicated technical staff at federal  
4 permit decision-making agencies and for state costs associated with  
5 implementation of this act;

6 (7) Fund dedicated technical staff at federal permit decision-  
7 making entities, as appropriate, and the state departments of ecology,  
8 natural resources, community, trade, and economic development, and fish  
9 and wildlife to implement the requirements of this chapter;

10 (8) Fund a technical specialist at the Northwest Indian Fisheries  
11 Commission and the Columbia River Intertribal Fisheries Commission for  
12 the purpose of implementing this chapter;

13 (9) Reimburse local jurisdictions for costs associated with local  
14 participation on the committee and technical subcommittees.

15 NEW SECTION. **Sec. 10.** COST REIMBURSEMENT. The committee shall  
16 negotiate a method of cost reimbursement for the costs associated with  
17 carrying out the purposes of this chapter, including prior departmental  
18 agreements with permitting agencies to cover their costs for  
19 transportation projects of statewide significance.

20 NEW SECTION. **Sec. 11.** CAPTIONS. Captions used in this chapter  
21 are not any part of the law.

22 NEW SECTION. **Sec. 12.** Sections 1 through 11 of this act  
23 constitute a new chapter in Title 47 RCW.

24 NEW SECTION. **Sec. 13.** This act expires March 31, 2003.

25 NEW SECTION. **Sec. 14.** This act is necessary for the immediate  
26 preservation of the public peace, health, or safety, or support of the  
27 state government and its existing public institutions, and takes effect  
28 immediately.

29 NEW SECTION. **Sec. 15.** If any provision of this act or its  
30 application to any person or circumstance is held invalid, the  
31 remainder of the act or the application of the provision to other  
32 persons or circumstances is not affected."

1 **SB 6188** - S AMD 410  
2 By Senators Prentice and Swecker

3 ADOPTED 05/22/01

4 In line 3 of the title, after "projects;" strike the remainder of  
5 the title and insert "adding a new chapter to Title 47 RCW; prescribing  
6 penalties; providing an expiration date; and declaring an emergency."

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