

SENATE BILL REPORT

SB 5742

AS REPORTED BY COMMITTEE ON TRANSPORTATION, MARCH 3, 1993

Brief Description: Relieving select transportation facilities from local permit requirements.

SPONSORS: Senators Vognild, Newhouse, Snyder, Bauer, Barr, Owen, Sellar, Loveland, Jesernig, Anderson, Winsley, Hochstatter, West, Sutherland, Sheldon, M. Rasmussen, Haugen, Hargrove, Moore, Bluechel and Oke

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: That Substitute Senate Bill No. 5742 be substituted therefor, and the substitute bill do pass.

Signed by Senators Vognild, Chairman; Loveland, Vice Chairman; Skratek, Vice Chairman; Barr, Drew, Haugen, Nelson, Oke, Prentice, Prince, M. Rasmussen, Sheldon, von Reichbauer, and Winsley.

Staff: Robin Rettew (786-7306)

Hearing Dates: February 22, 1993; March 3, 1993

BACKGROUND:

Recent estimates by the Department of Transportation (DOT) indicate that it takes twice as long to obtain permits for highway projects today as it did just two years ago. This delay is largely attributable to the large number of jurisdictions having authority to impose permits.

Provisions in the Growth Management Act require state agencies to comply with local land use regulations. This has been interpreted to mean that DOT must apply for permits within each local jurisdiction that is touched by a state highway facility.

Each local jurisdiction is free to impose different permit requirements. As a result, a state highway facility can be subject to duplicative, contradictory or costly requirements at different locations along the same highway facility.

SUMMARY:

The Legislative Transportation Committee may designate select transportation projects as immediately necessary for the health, safety or welfare of the traveling public. Once a project has been so designated, permits from state and local agencies are not required.

The Department of Transportation shall, to the maximum extent practical, use best efforts to adhere to those land use and

environmental standards that otherwise would have been required by state and local agencies.

The Department of Transportation is not relieved from permits required under federal law.

EFFECT OF PROPOSED SUBSTITUTE:

Authority to waive state and local permits for select transportation projects is transferred from the Legislative Transportation Committee (LTC) to the Governor. The LTC is required to hold a public hearing and to consider certain criteria before recommending projects to be considered by the Governor for permit waivers.

Statutes related to state and local permitting authorities to provide for the possibility of a waiver are set forth.

Many of the elements provided for in SB 5763 are incorporated in the substitute bill. These elements include:

- (1) Creation of an interagency "Environmental Policies Committee" comprised of representatives from state, local, regional, and tribal parties with environmental interests related to transportation projects;
- (2) Designation of responsibilities for the Environmental Policies Committee including development of environmental policies and procedures for the department of transportation; development of recommendations regarding uniform applications for hydraulic and shorelines permits; recommendations regarding means for improving permitting processes; and other duties;
- (3) The Transportation Commission is given authority to formally adopt the policies and procedures recommended by the Environmental Policies Committee;
- (4) After adoption of environmental policies and procedures, the department is required to adopt rules in accordance with the Administrative Procedure Act;
- (5) The department is directed to include the public and agencies with regulatory jurisdiction in the initial project scoping process and in development of project design alternatives;
- (6) Variances from adopted environmental policies and procedures are permitted during the project design alternative stage of project development;
- (7) A conditional permit is defined and a process for application set forth. If a conditional permit is denied, the department ceases all activities on the project;
- (8) Provided the conditional permit is granted, WSDOT proceeds to make formal application for all relevant federal, state, and local permits.

Appropriation: none

Revenue: none

Fiscal Note: available

TESTIMONY FOR:

There is general recognition that permitting is a problem for the Department of Transportation. Regulatory agencies need to get involved earlier in the project selection and design process. Involving environmental experts in the development of policies and procedures, which will govern WSDOT activities, should expedite subsequent permitting requirements. Providing room to negotiate from those adopted policies and procedures must also be provided for, but in a limited time frame. Developing the conditional permit will enable the department to know which projects to proceed with and which to stop at an earlier stage of project development.

In some circumstances it may be necessary to have the Governor waive permitting requirements.

TESTIMONY AGAINST:

The Department of Transportation should not be allowed to develop its own policies and procedures. This is the responsibility of the regulatory agencies.

Providing for waiver of permits is taking away the authority granted to state and local regulatory agencies.

Many of the permitting issues can be, and should be, resolved through the Growth Management Act process.

The state's valuable environmental resources will not be adequately protected.

TESTIFIED: Skip Burch, WSDOT (pro); Terry Husseman (con); Dave Williams, Washington Association of Cities (con); Chris Leman, Maryanne Tagney Jones, Bob Apple, Coalition of Washington Communities (con); Glen Hudson, Washington Association of Realtors (pro); Ed Manary, Department of Fisheries (con); Gary Lowe, Association of Washington Counties (pro); Bruce Wishart, Sierra Club (con)