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**ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1850**

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

**By** House Transportation (originally sponsored by Representatives Hayes, Clibborn, Orcutt, Takko, Harmsworth, Riccelli, Rodne, Bergquist, Wilson, Robinson, Smith, Muri, and Magendanz)

AN ACT Relating to improving the efficiency of conducting certain department of transportation actions by exempting these actions from obtaining local reviews or permits under the shoreline management act; amending RCW 90.58.355; and creating a new section.

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

NEW SECTION. **Sec.**  To ensure that vital maintenance and minor safety upgrades to state transportation facilities are efficiently achieved, the legislature finds that regulatory reviews under chapter 90.58 RCW should be reformed. The activities of the department of transportation are guided by manuals and standards of practice designed to effectively avoid and minimize impacts to the environment. These activities are also subject to periodically renewed programmatic permits from federal agencies, the department of fish and wildlife, and the department of ecology water quality program. Adding local permits or letters of exemption under the shoreline management act does not substantively improve the environmental outcomes of this work. Adding these local reviews creates time delays, the imposition of inconsistent standards and manuals, and uncertainty in the permitting process. Therefore, the legislature finds that it is in the public interest to exclude state highway maintenance and minor safety upgrade activities from local review and approval processes under the shoreline management act.

**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 ((~~shall~~)), letter of exemption, or other review conducted by a local government to implement this chapter do 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;

(3)(a) Subject to the limitations specified in this subsection (3), normal maintenance or repair of existing structures or developments by the department of transportation, including maintenance or repair of damage caused by accident, fire, or the elements.

(b) For purposes of this subsection (3), the following definitions apply:

(i) "Normal maintenance" includes any usual acts to prevent a decline, lapse, or cessation from a lawfully established condition.

(ii) "Normal repair" means to restore a structure or development to a state comparable to its original condition including, but not limited to, restoring the development's size, shape, configuration, location, and external appearance, within a reasonable period after decay or partial destruction. Normal repair of a structure or development may not cause substantial adverse effects to shoreline resources or the shoreline environment. Replacement of a structure or development may be authorized as a normal repair if:

(A) Replacement is the common method of repair for the type of structure or development;

(B) The replacement structure or development is comparable to the original structure or development including, but not limited to, the size, shape, configuration, location, and external appearance of the original structure or development; and

(C) The replacement does not cause substantial adverse effects to shoreline resources or the shoreline environment.

(c) Normal maintenance or repair of an existing structure or development under this subsection (3) does not include the expansion of an existing structure or development, or the construction of a new structure or development that does not meet the criteria of a replacement structure or development under (b)(ii) of this subsection (3); or

(4) Construction or installation of safety structures and equipment by the department of transportation, including pavement marking, freeway surveillance and control systems, railroad protective devices not including grade-separated crossings, grooving, glare screen, safety barriers, energy attenuators, and hazardous or dangerous tree removal.

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