

HOUSE BILL REPORT

SSB 6363

As Passed House:
March 3, 2016

Title: An act relating to the design and construction of certain transportation facilities adjacent to or across a river or waterway.

Brief Description: Concerning the design and construction of certain transportation facilities adjacent to or across a river or waterway.

Sponsors: Senate Committee on Transportation (originally sponsored by Senators Takko, Ericksen, Hobbs and Parlette).

Brief History:

Committee Activity:

Transportation: 2/22/16, 2/29/16 [DP].

Floor Activity:

Passed House: 3/3/16, 58-39.

Brief Summary of Substitute Bill

- Requires the Washington State Department of Transportation (WSDOT) to consider and report on the feasibility of providing waterway access for recreational purposes during the design process for state highway projects, other than limited access highways and ferry terminals, that include the construction of a new bridge or reconstruction of an existing bridge across a navigable river or waterway, and coordinate with other agencies in certain circumstances.
- Requires the WSDOT, to the greatest extent practicable, to not adversely impact pre-existing public access to a waterway when constructing a state highway project.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass. Signed by 24 members: Representatives Clibborn, Chair; Farrell, Vice Chair; Fey, Vice Chair; Moscoso, Vice Chair; Hargrove, Assistant Ranking Minority Member; Harmsworth, Assistant Ranking Minority Member; Bergquist, Gregerson,

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Hayes, Hickel, Kochmar, McBride, Moeller, Morris, Ortiz-Self, Pike, Riccelli, Rodne, Rossetti, Sells, Shea, Stambaugh, Tarleton and Young.

Minority Report: Without recommendation. Signed by 1 member: Representative Orcutt, Ranking Minority Member.

Staff: David Munnecke (786-7315).

Background:

The Washington State Department of Transportation (WSDOT) is not generally required to consider or report on the feasibility of providing a means of public access to a navigable river or waterway for public recreational purposes when constructing a state highway project that is adjacent to or crosses a waterway. However, projects that are required to document the environmental impacts of the project through either an environmental impact statement or an environmental assessment would likely be required to consider the issue of public access as part of that process.

The National Environmental Policy Act.

The National Environmental Policy Act (NEPA) establishes a review process to determine the environmental impact of federal undertakings. There are three levels of analysis that can be undertaken pursuant to the NEPA:

- categorical exclusion determination, which determines if the project meets certain criteria which have been previously determined to indicate that the project will have no significant environmental impact;
- environmental assessment, which requires the preparation of a written assessment of whether the project will have a significant impact on the environment; and
- environmental impact assessment, which is a more detailed evaluation of the proposed project and potential alternatives.

Summary of Bill:

The intent section recognizes that the WSDOT considers public access in its project areas, and directs the WSDOT to explore the feasibility of providing access for water-related recreation.

The WSDOT is directed to consider and report on the feasibility of providing a means of public access to waterways for public recreation purposes during the design process for state highway projects, other than limited access highways and ferry terminals, that include the construction of a new bridge or reconstruction of an existing bridge across a navigable river or waterway.

The WSDOT is required to document in the feasibility report whether proposed projects are in an area identified by state or local plans to be a priority for recreational access to waterways. The WSDOT is also required to coordinate with relevant state agencies or local agencies if the project is in an identified priority area.

The consideration of feasibility required under the bill must include a description of the suitability for public use, implications of access, and alternate methods of public access. The consideration of feasibility must not alter the purpose and need of the proposed project or create a legal obligation to modify existing access. If public access is found to be feasible, any subsequent development must be deemed to be for recreational purposes.

The WSDOT is directed not to adversely impact any pre-existing public access to a waterway, to the greatest extent possible, when undertaking state highway projects, including major improvement projects.

The requirements regarding public access are not to be interpreted as to delay decision-making or approvals on projects, or limit the WSDOT's entitlement to recreational immunity consistent with statute.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) In many places in Washington, there is limited public access to the water. Many of the WSDOT projects that have been constructed across the state have also not included such access. An effort should be made to increase public access to the water, especially if it can be done at low cost.

A variety of parties have worked to come to agreement on the language in this bill. The WSDOT only has to consider feasibility of access, and this is in keeping with the findings of the blue-ribbon task force.

The bill requires no effort regarding pre-existing lawful access, so it should have no impact on the requirements of federal law.

There was \$26 billion spent on outdoor recreation in Washington last year, and a third of that was on waterways. The WSDOT has done some good work on public access, but it could do better. This bill brings consistency and gets Washington to follow the example of other states in providing waterway access. Such access is key for the boating industry.

(Opposed) The Maritime Transportation Access Act was a federal plan to protect the waterways. Maritime security areas should not be made accessible because of the risk of attack, and currently an access card is needed to access such areas.

It is dangerous to have people access certain areas for recreation. The state should not interfere with maritime access.

Bicycles and pedestrians should also be kept out of maritime areas to keep them separate from trucks.

Persons Testifying: (In support) Senator Takko, prime sponsor; Nathan Fitzgerald, Northwest Marine Trade Association; Patrick Steehler, American Canoe Association; and Brittany Jarnot, Recreational Boating Association of Washington.

(Opposed) M.C. Halvorsen, Boyer Towing, Inc.

Persons Signed In To Testify But Not Testifying: None.