

SENATE BILL REPORT

SB 6009

As Reported by Senate Committee On:
Law & Justice, January 22, 2026

Title: An act relating to direct review of administrative decisions by the court of appeals.

Brief Description: Concerning direct review of administrative decisions by the court of appeals.

Sponsors: Senators Holy, Dhingra and Nobles.

Brief History:

Committee Activity: Law & Justice: 1/15/26, 1/22/26 [DPS].

Brief Summary of First Substitute Bill

- Retains changes made to the Administrative Procedure Act in 2024 for direct review by the court of appeals of decisions issued by environmental boards related to clean energy projects.
- Retains changes made to the Land Use Petition Act in 2021 for direct review by the court of appeals of local agency land use decisions.
- Makes a party's withholding of consent to transfer for direct appeal inadmissible, and the withholding of consent may not be used against the party in any proceeding.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 6009 be substituted therefor, and the substitute bill do pass.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Holy, Ranking Member; Fortunato, Lovick, Salomon, Torres, Valdez and Wagoner.

Staff: Tim Ford (786-7414)

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

Background: Administrative Procedure Act. The Administrative Procedure Act (APA) sets the process state agencies must follow when an agency takes administrative action. Agencies offer quasi-judicial administrative hearings to hear appeals of agency actions. The APA establishes standards for when the final decision of an administrative agency may be directly reviewed by the court of appeals.

Environmental Boards. Environmental boards include the Pollution Control Hearings Board (PCHB), the Shorelines Hearings Board (SHB), and the Growth Management Hearings Board (GMHB). These boards review environmental and land use decisions from agencies and local governments, including the issuance of permits, orders, and civil penalties.

Clean Energy Projects. Clean energy projects are defined as the following facilities together with their associated facilities:

- clean energy product manufacturing facilities;
- electrical transmission facilities;
- facilities to produce non-emitting electric generation or electric generation from renewable resources, with certain exceptions;
- storage facilities;
- facilities or projects at any facilities that exclusively or primarily process biogenic feedstocks into biofuel;
- biomass energy facilities; or
- facilities or projects at any facilities that exclusively or primarily process alternative jet fuel.

2024 Changes to the Administrative Procedure Act for Direct Review by the Court of Appeals for Decisions Issued by the Environmental Boards Related to Clean Energy Projects. For the appeal of a permit related to a clean energy project that is the subject of a final adjudicative decision of an environmental board, upon a motion filed by any party to the appeal, the superior court shall certify a case for transfer to the court of appeals upon a finding that:

- the agency record is sufficiently developed; or
- the court has completed any necessary supplementation of the record.

If the superior court certifies a final decision of an adjudicative proceeding, the superior court shall transfer the matter to the court of appeals as a direct appeal.

A party contesting a superior court decision granting or denying certification for direct review may file a motion for discretionary review with the court of appeals. Where a contesting party demonstrates that substantial prejudice would result from direct review by the court of appeals, the court of appeals may remand to the superior court. Transfer of cases by superior court certification does not require the filing of a motion for discretionary review with the court of appeals.

These 2024 changes to the APA will expire June 30, 2026. Effective July 1, 2026 a new change to the APA will take effect that differentiates between appeals that are related to a clean energy project and appeals that are not related to a clean energy project.

Land Use Petition Act. With limited exceptions, the Land Use Petition Act (LUPA) is the exclusive means of judicial review of land use decisions. The term land use decision is defined as a final determination by a county, city, or incorporated town's body or officer with the highest level of authority, including those with authority to hear appeals, to make a determination on:

- applications for a project permit or other governmental approval;
- an interpretative or declaratory decision regarding the application to a specific property of zoning, ordinances, or rules; and
- the enforcement of ordinances regulating the improvement, development, modification, maintenance, or use of real property.

The Legislature made changes to LUPA in 2021, which provides for the appellate review of a land use decision. The superior court may transfer the judicial review of a land use decision to the court of appeals upon finding that all parties have consented to the transfer to the court of appeals and agreed that the judicial review can occur based upon an existing record. Transfer of cases does not require filing a motion for discretionary review with the court of appeals.

The changes to LUPA in 2021 will expire June 30, 2026.

Summary of Bill (First Substitute): Changes made to the APA in 2024 are retained and will not expire. Changes to the APA set to take effect July 1, 2026 will not take effect. Changes to LUPA in 2021 are retained and will not expire.

A party's withholding of consent to transfer for direct appeal is inadmissible as evidence at trial. The withholding of consent may not be used against the party in any proceeding.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (First Substitute):

- Makes a party's withholding of consent inadmissible and the withholding of consent may not be used against the party in any proceeding.

Appropriation: None.

Fiscal Note: Requested on January 9, 2026.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This direct appeal process was put in place during Covid because of bottlenecks in the courts. The superior courts were overburdened. This is a current process that allows appeals to go from the administrative forum directly to the court of appeals. It takes consent of all parties, and it is a good use of resources. The courts agree that the process is working well. There is no fiscal note so please lift the sunset date on these laws.

Persons Testifying: PRO: Senator Jeff Holy, Prime Sponsor; Bill Bowman, Washington State Court of Appeals.

Persons Signed In To Testify But Not Testifying: No one.