

FINAL BILL REPORT

EHB 2814

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Synopsis as Enacted

Brief Description: Concerning the replacement of certain elements of the state route number 520 corridor.

Sponsors: Representatives Clibborn, Armstrong, Eddy and Springer.

Background:

Shoreline Management Act – General Provisions.

Policy.

The Shoreline Management Act of 1971 (SMA) governs uses of state shorelines. The SMA enunciates state policy to provide for shoreline management by planning for and fostering "all reasonable and appropriate uses." The SMA prioritizes public shoreline access and enjoyment, and creates preference criteria listed in prioritized order that must be used by state and local governments in regulating shoreline uses.

Regulations, Permits, and Delayed Authorizations for Commencing Construction.

The SMA involves a cooperative regulatory approach between local governments and the state. At the local level, the SMA regulations are developed in city and county shoreline master programs (master programs) that regulate land use activities in shoreline areas of the state. Each local government is charged with establishing a program for the administration and enforcement of a shoreline permit system. While the SMA specifies standards for local governments to review and approve permit applications, the administration of the permit system is performed exclusively by the local government. Local governments, however, must notify the Department of Ecology (DOE) of all SMA permit decisions.

The SMA requires a property owner or developer to obtain a substantial development permit for substantial developments within shoreline areas. "Substantial developments" are defined to include both developments with a total cost or fair market value exceeding \$5,718 and developments materially interfering with normal public shoreline or water use. Certain exemptions to the substantial development permit requirement are specified in statute.

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.

The permit review and approval standards generally specify that a local permit system must include provisions to assure that construction on a project may not begin or be authorized until 21 days from the date of filing, which is defined as the date of receipt by the DOE of the local government's decision, or until all review proceedings are terminated.

Appeals and Timing – Permits and Construction.

Appeals of substantial development permit decisions and the DOE shoreline rules and regulations are reviewed by the Shorelines Hearings Board (SHB). Any person aggrieved by the granting, denying, or rescinding of a shorelines permit may seek review from the SHB by filing a petition for review within 21 days of the date of receipt of the decision. The DOE or the Attorney General may also obtain review of any final decision granting a permit, or granting or denying an application for a permit issued by a local government by filing a written petition with the SHB and the appropriate local government within 21 days of the date the final decision was filed. Final decisions of the SHB may be appealed to superior court, and the SHB must issue its decision within 180 days after the date the petition is filed.

If a permit has been granted by a local government, the SMA specifies that construction may, with limited exceptions, be commenced 30 days after the date of an appeal of a decision of the SHB if:

- the granting of the permit is appealed to the SHB within 21 days of the date of filing;
- the SHB approves the granting of the permit or a portion of the substantial development for which the local government issued the permit; and
- an appeal for judicial review of the SHB's decision is filed in accordance with requirements of the Administrative Procedure Act.

Permittees beginning construction on a project prior to the termination of all review proceedings, however, do so at their own risk.

Floating Bridge Construction.

The Legislature has previously authorized the Washington State Department of Transportation (WSDOT) to proceed with construction of floating bridges while shoreline permits were being appealed. The first instance was in 1980, in regards to the permits for the construction of the Hood Canal floating bridge. The second instance was in 1991, in regards to the permits for the construction of the Interstate 90 (I-90) floating bridge.

Evergreen Point Bridge – Replacement, Permits, and Appeals.

The Governor Albert D. Rosellini Bridge – Evergreen Point (Evergreen Point Bridge) spans the 1.44 mile distance between Interstate 5 (I-5) in the City of Seattle and the City of Medina on the eastern shore of Lake Washington. Originally opened to traffic in 1963, the four-lane floating bridge serves approximately 115,000 vehicles each day.

In 2007 the Legislature authorized the WSDOT to replace the existing bridge with a new floating structure. The replacement bridge, which is scheduled to open to traffic by the end of 2014, will have six lanes of traffic, including two general-purpose lanes, one transit/high occupancy vehicle (HOV) lane in each direction, and the ability to accommodate future light rail. In August 2011 the Federal Highway Administration issued the record of decision for the project, and construction on the replacement bridge is scheduled to begin in 2012. The

program budget for the State Route (SR) 520 Bridge replacement and the HOV Program, as set by the Legislature in 2009, is \$4.65 billion.

Numerous state and federal permits are required for the construction of the replacement bridge. With respect to permits required under the SMA, on January 17, 2012, the City of Seattle issued conditional approvals for the I-5 to Medina shoreline permit applications. On February 8, 2012, the Coalition for a Sustainable 520 (Coalition) filed an appeal of shoreline permits issued by Seattle with the SHB. In accordance with the SMA, the Coalition's actions have resulted in a stay of construction.

Summary:

New construction authorization and conditioning provisions for the replacement of the floating bridge and landings of the SR 520 Evergreen Point Bridge are established.

Construction Authorization.

Construction may begin 21 days after the date the WSDOT receives the local government's permit decision, if the local government decision pertains to any permit or a decision to issue any permit to the WSDOT for the replacement of the floating bridge and landings of the SR 520 Evergreen Point Bridge on or adjacent to Lake Washington. A substantial development permit granted for the floating bridge and landings is deemed to have been granted on the date that the local government's decision to grant the permit is issued.

The construction authorization applies to only those elements of the floating bridge and landings that do not preclude the WSDOT's selection of a four-lane alternative for SR 520 between I-5 and the City of Medina.

The WSDOT is prohibited from engaging in construction on any portion of the SR 520 corridor between the western landing of the floating bridge and I-5 until the Legislature has authorized the imposition of tolls on I-90 and/or other funding sufficient to complete construction of the SR 520 bridge replacement and the HOV project.

Conditioning Provisions.

The construction authorization does not preclude the SHB from concluding that the project or any element of the project is inconsistent with the goals and policies of the SMA or the applicable master program.

General Limitations and Expiration.

The construction authorization and conditioning provisions expire on June 30, 2014, and apply to appeals filed after January 1, 2012.

Votes on Final Passage:

House	94	4
Senate	33	16

Effective: March 23, 2012