
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1850

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)

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

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

6 NEW SECTION. **Sec. 1.** To ensure that vital maintenance and minor
7 safety upgrades to state transportation facilities are efficiently
8 achieved, the legislature finds that regulatory reviews under chapter
9 90.58 RCW should be reformed. The activities of the department of
10 transportation are guided by manuals and standards of practice
11 designed to effectively avoid and minimize impacts to the
12 environment. These activities are also subject to periodically
13 renewed programmatic permits from federal agencies, the department of
14 fish and wildlife, and the department of ecology water quality
15 program. Adding local permits or letters of exemption under the
16 shoreline management act does not substantively improve the
17 environmental outcomes of this work. Adding these local reviews
18 creates time delays, the imposition of inconsistent standards and
19 manuals, and uncertainty in the permitting process. Therefore, the
20 legislature finds that it is in the public interest to exclude state

1 highway maintenance and minor safety upgrade activities from local
2 review and approval processes under the shoreline management act.

3 **Sec. 2.** RCW 90.58.355 and 2012 c 169 s 1 are each amended to
4 read as follows:

5 Requirements to obtain a substantial development permit,
6 conditional use permit, ~~((or))~~ variance ~~((shall))~~, letter of
7 exemption, or other review conducted by a local government to
8 implement this chapter do not apply to ~~((any person))~~:

9 (1) Any person conducting a remedial action at a facility
10 pursuant to a consent decree, order, or agreed order issued pursuant
11 to chapter 70.105D RCW, or to the department of ecology when it
12 conducts a remedial action under chapter 70.105D RCW. The department
13 must ensure compliance with the substantive requirements of this
14 chapter through the consent decree, order, or agreed order issued
15 pursuant to chapter 70.105D RCW, or during the department-conducted
16 remedial action, through the procedures developed by the department
17 pursuant to RCW 70.105D.090; ~~((or))~~

18 (2) Any person installing site improvements for storm water
19 treatment in an existing boatyard facility to meet requirements of a
20 national pollutant discharge elimination system storm water general
21 permit. The department must ensure compliance with the substantive
22 requirements of this chapter through the review of engineering
23 reports, site plans, and other documents related to the installation
24 of boatyard storm water treatment facilities;

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

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

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

34 (ii) "Normal repair" means to restore a structure or development
35 to a state comparable to its original condition including, but not
36 limited to, restoring the development's size, shape, configuration,
37 location, and external appearance, within a reasonable period after
38 decay or partial destruction. Normal repair of a structure or
39 development may not cause substantial adverse effects to shoreline

1 resources or the shoreline environment. Replacement of a structure or
2 development may be authorized as a normal repair if:

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

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

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

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

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

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