

No. 72719-2-I

COURT OF APPEALS, DIVISION I
OF THE STATE OF WASHINGTON

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION,

Respondent,

vs.

CITY OF SEATTLE,

Appellant.

CITY OF SEATTLE'S OPENING BRIEF

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I. INTRODUCTION AND SUMMARY OF THE ARGUMENT

The legislature adopted a balanced approach to subjecting state agencies to local development regulations. On the one hand, the Growth Management Act (“GMA”) sets a clear default rule: agencies must comply with those regulations. On the other hand, the legislature adopted several agency-specific exceptions to the rule and drew one significant boundary: local development regulations may not be used to preclude the siting of essential public facilities, including highways of statewide significance. The legislature also adopted provisions addressing how the Washington State Department of Transportation (“WSDOT”) and local governments are to coordinate to apply local regulations more efficiently and effectively to state highway projects.

Seattle’s Grading Code (“Code”) fits within this balanced statutory structure. The Code draws a reasonable line: it exempts work *within* a highway right-of-way, but applies to work *outside* that right-of-way. The City required WSDOT to obtain grading permits for work within temporary construction easements adjacent to, but outside of, the State Route (“SR”) 520 highway right-of-way. WSDOT obtained the permits. The permits impose no requirement on WSDOT beyond its self-imposed requirements.

WSDOT sued to challenge the City's authority to require the permits. WSDOT contends the balance struck by the legislature—and the Code structured around that balance—are preempted by a preexisting statute giving WSDOT the authority to acquire and develop property for highway purposes. That contention lacks merit because a preexisting statute about WSDOT's proprietary authority does not trump the later statutes dealing with local governments' regulatory authority.

Even if the Code were not preempted, WSDOT argues the Code's exemption for work within a "highway right-of-way" does not apply because the temporary construction easements are highway right-of-way. The temporary construction easements are not highway right-of-way because they are not part of the SR 520 right-of-way, and because none of the easements constitutes a strip of land some portion of which is open to public vehicular travel.

Because WSDOT fails to carry its burden to prove the City lacked the authority to require the grading permits, the City respectfully asks this Court to reverse the trial court and dismiss this action.

II. ASSIGNMENTS OF ERROR

A. Assignments of error.

1. The trial court erred in determining the City's authority to require grading permits under RCW 36.70A.103 is preempted by other statutes and case law.

2. The trial court erred in determining the construction easements are "highway right-of-way" within the meaning of an exemption in the City's Grading Code.

B. Issues pertaining to assignments of error.

1. Although the legislature granted WSDOT proprietary authority over state highways, the legislature later required state agencies to comply with local development regulations, precluded local jurisdictions from preventing the siting of essential public facilities, recognized local jurisdictions' authority over highway projects, and repeatedly directed WSDOT to work with local governments to obtain local permits. The City required WSDOT to obtain grading permits that do not preclude the siting of essential public facilities. Are the City permits authorized by state law?

2. The Code requires permits for grading outside a "highway right-of-way," which means a strip of land, any portion of which is open as a matter of right to public vehicular travel. WSDOT acquired

construction easements on sites adjacent to, but outside highway right-of-way. Are the easements subject to the Code?

III. STATEMENT OF THE CASE

A. **WSDOT acquires temporary construction easements adjacent to, but outside, the SR 520 right-of-way.**

WSDOT's highway plat maps and permit plans show where grading for the SR 520 project will occur.¹ To perform the work, WSDOT acquired temporary construction easements from the City,² the University of Washington,³ and the Washington State Department of Natural Resources.⁴ Grading includes constructing an access road and storm-water-runoff detention ponds, installing temporary pilings, moving soil, and regrading land covered by water.⁵ The easements allow only construction-related activities for a limited period of time, and no portion of the easements is open for public vehicular travel.⁶

WSDOT's grading plan and plat maps show the construction easements lying outside of the WSDOT-delineated SR 520 highway right-

¹ CP 43; CP 46-49; CP 51; CP 94-95.

² CP 52-71.

³ CP 72-82.

⁴ CP 96.

⁵ CP 94; CP 83-84; CP 95; CP 111-116.

⁶ CP 53; CP 60; CP 72.

of-way.⁷ WSDOT's SR 520 plat map also shows the areas where WSDOT will acquire new highway right-of-way for the project;⁸ the construction easements are not among those areas.⁹

B. WSDOT applies for grading permits and files its LUPA petition after the permits are issued.

The Code requires a permit for grading work, but exempts grading outside of "highway right-of-way."¹⁰ After consulting with the City to determine if grading permits were required, WSDOT applied for the permits.¹¹ The City issued the permits conditioned on WSDOT complying with vibration standards it developed and applies to other areas outside its highway rights-of-way.¹²

With the permits in hand, WSDOT filed its LUPA petition challenging the City's authority to require the permits.¹³

⁷ CP 43-51 (plat maps); CP 111 (grading plan). SR 520The highway right-of-way is marked by heavy underlined backslashes //////// and labeled "Existing R/W" on the plat maps, and "Limited Access/WSDOT Right of Way" on the grading plan. The construction easement boundaries are marked by a heavy solid line _____ on the plat maps, and as a heavy dashed line ----- on the grading plan and are labeled "Temporary Construction Easement."

⁸ CP 43-51.

⁹ *Id.*

¹⁰ Seattle Municipal Code ("SMC") 22.170.060.B.14. Reproduced at CP 252-254.

¹¹ CP 86-87.

¹² CP 120-185 (permits). *Compare* CP 106-107 (WSDOT vibration standards).

¹³ CP 1-6.

C. The trial court rules the Code is preempted, and in any event the construction easements are exempt “highway rights-of-way.”

The trial court ruled the City’s authority to impose development regulations on SR 520 construction is preempted by RCW 47.01.260(1), which gives WSDOT certain authority over state highway construction, and Chapter 47.52 RCW, which gives WSDOT certain authority over limited-access facilities.¹⁴ The court also ruled the construction easements are “highway right-of-way” within the meaning of the Code’s exemption.¹⁵ The City appeals that decision.

IV. ARGUMENT

In conducting its *de novo* review under LUPA,¹⁶ this Court may grant relief to WSDOT only if it carries its burden of establishing that one of the LUPA standards has been met.¹⁷ WSDOT cannot sustain that burden. The City has authority to require the grading permits because state law requires WSDOT to comply with local development regulations that do not preclude the siting of essential public facilities, such as SR 520.

¹⁴ Order Granting WSDOT’s Petition (“Order”) at CP 288.

¹⁵ Order at CP 287.

¹⁶ *Wells v. Whatcom County Water Dist. No. 10*, 105 Wn. App. 143, 150, 19 P.3d 453 (2001) (“We stand in the shoes of the superior court and review the...action de novo on the basis of the administrative record.”).

¹⁷ See RCW 36.70C.130(1).

The City correctly applied its Code to WSDOT's work in temporary construction easements outside the SR 520 highway right-of-way.

A. Applying the Code to WSDOT follows the statutory rule that state agencies must comply with local development regulations that do not preclude the siting of essential public facilities.

1. The statutory rule is deliberate and balanced.

The text, structure, history, and purpose of the GMA and related laws demonstrate a simple rule: all state agencies must comply with local development regulations to the extent they do not preclude the siting of essential public facilities.

a) The statutory text is clear.

The text of the GMA indicates the essential balance. The default rule is: "State agencies shall comply with the local comprehensive plans and development regulations and amendments thereto...."¹⁸ But local regulations may not go too far: "No local comprehensive plan or development regulation may preclude the siting of essential public facilities."¹⁹ Essential public facilities include highways of statewide significance, such as SR 520.²⁰

¹⁸ RCW 36.70A.103.

¹⁹ RCW 36.70A.200(5).

²⁰ See RCW 36.70A.200(1) (essential public facilities include "state or regional transportation facilities as defined in RCW 47.06.140"); RCW 47.06.140(1) (highways of statewide significance designated by the legislature under chapter 47.05 RCW are essential state public facilities under RCW 36.70A.200); RCW 47.05.021(3) ("The department or the legislature shall designate state highways of statewide significance

This Court applied that balanced approach to resolve a dispute between the Port of Seattle and a city over the Port's construction of an airport runway. On the one hand, this Court affirmed that a dirt haul route was part of the airport essential public facility and the route could not be precluded by the city's development regulations.²¹ On the other hand, the Court affirmed the Port's obligation to comply with city permit requirements, even if they increased the Port's construction costs.²²

b) The statutory structure confirms the text.

The structure of the GMA and statutes controlling specific state agencies confirms that the default rule means what it says. For example, the GMA includes an exception to the default rule to allow the Department of Social and Health Services ("DSHS") to establish secure community transition facilities for sexually-violent predators on McNeil Island and elsewhere.²³ This exception is echoed in the statutes specific to those DSHS facilities: "Notwithstanding [the default rule in the GMA] or any

under RCW 47.06.140. If the department designates a state highway of statewide significance, it shall submit a list of such facilities for adoption by the legislature."); S. Con. Res. 8403, 56th Leg., 1999 Reg. Sess. (Wa. 1999) (legislature adopting "the system of State Highways of Statewide Significance as designated by the Washington State Transportation Commission through Resolution 584 dated December 17, 1998"); and Transportation Commission Res. 584 (Dec. 17, 1998) (designating SR 520 between Interstates 5 and 405 as a highway of statewide significance).

²¹ *City of Des Moines v. Puget Sound Regional Council*, 98 Wn. App. 23, 33-34, 988 P.2d 27 (1999).

²² *Id.*

²³ RCW 36.70A.103(1) (citing RCW 71.09.250(1) - (3), RCW 71.09.342, and RCW 72.09.333).

other law, this section preempts and supersedes local plans, development regulations, permitting requirements, inspection requirements, and all other laws as necessary to enable the department to site, construct, renovate, occupy, and operate” those DSHS facilities.²⁴ If the default rule did not mean what it says—if state agencies did *not* have to comply with local development regulations—there would be no need for exceptions like these.

By contrast, the statutory structure regarding state highways manifests an understanding that WSDOT must work within the default rule. Because local development regulations apply to important state highway projects, the GMA codifies the legislature’s intent that WSDOT and local jurisdictions coordinate on applying local development regulations to those projects:

The legislature recognizes that there are major transportation projects that affect multiple jurisdictions as to economic development, fiscal influence, environmental consequences, land use implications, and mobility of people and goods. The legislature further recognizes that *affected jurisdictions have important interests that must be addressed, and that these jurisdictions’ present environmental planning and permitting authority may result in multiple local permits and other requirements being specified for the projects.*

²⁴ RCW 71.09.250(3) (specific to McNeil Island). *Accord* RCW 71.09.342(1) (facilities elsewhere). Secure community transition facilities are also listed specifically among examples of essential public facilities that may not be precluded through local development regulations. RCW 36.70A.200(1).

The legislature finds that *the present permitting system* may result in segmented and sequential decisions by local governments that do not optimally serve all the parties with an interest in the decisions. The present system may also make more difficult achieving the consistency among plans and actions that is an important aspect of this chapter.

It is the intent of the legislature to provide for more efficiency and equality *in the decisions of local governments regarding major transportation projects* by encouraging coordination or consolidation of the processes for reviewing environmental planning and *permitting requirements for those projects*.²⁵

The GMA effectuates this goal by mandating a collaborative process to facilitate multijurisdictional review of transportation projects that cross multiple local boundaries:

For counties engaged in planning under this chapter, there shall be established...*a collaborative process to review and coordinate state and local permits for all transportation projects* that cross more than one city or county boundary. This process shall at a minimum, establish a mechanism among affected *cities* and counties to designate a permit coordinating agency to facilitate *multijurisdictional review and approval of such transportation projects*.²⁶

This structure extends to Title 47 RCW (“Highway Act”), which directs WSDOT to cooperate with local jurisdictions to identify local permits, and to initiate timely local review:

The department shall, in cooperation with environmental regulatory authorities . . . screen construction projects to determine which projects will require complex or multiple

²⁵ RCW 36.70A.420 (emphasis added).

²⁶ RCW 36.70A.430 (emphasis added).

*permits. The permitting authorities shall develop methods for initiating review of the permit applications for the projects before the final design of the projects.*²⁷

This multiple-statute mandate to coordinate local permitting of highway projects would not be needed if WSDOT did not have to comply with local development regulations.

- c) **The statutory history underscores the legislature's deliberate choice to strike the balance in the text.**

The history of the GMA and Highway Act underscores the legislature's intent to have WSDOT follow the default rule. The legislature adopted that rule and the essential public facilities exception in 1991 as part of the first round of amendments to the GMA.²⁸ Just three years later, in 1994, the legislature amended the GMA and the Highway Act to recognize the potential for WSDOT and local interests to collide through local permitting for transportation projects, and to resolve that conflict *not* by superseding or preempting local regulations, but through early and effective coordination between WSDOT and local permitting authorities.²⁹

²⁷ RCW 47.01.300 (emphasis added).

²⁸ Laws of 1991, Spec. Sess., ch. 32, §§ 1 and 4.

²⁹ Laws of 1994, ch. 258. This added the provisions discussed above: RCW 36.70A.420; RCW 36.70A.430; and RCW 47.01.300.

The legislature continued its efforts to improve coordination between WSDOT and local permitting agencies in 2001 and 2003 by adopting and extending a local-permit-coordination pilot project. The law was codified in Chapter 47.06C RCW under the heading “Permit Efficiency and Accountability,”³⁰ and was premised on WSDOT needing to obtain local permits for its projects. The law’s goal was for WSDOT and local governments to cooperate to minimize permitting delay.³¹ The law created a “transportation and permit efficiency committee” that included voting members appointed by WSDOT and the Association of Washington Cities.³² The committee was directed to “develop a one-stop permit decision-making process that uses interdisciplinary review of transportation projects of statewide significance to streamline and expedite permit decision making” and to “conduct one or more pilot projects to implement the collaborative review process set forth in RCW 36.70A.430 to review and coordinate state and local permits....”³³

The pilot projects were to be structured around the reality that local governments had the authority to make permitting decisions about

³⁰ Laws of 2001, 1st Spec. Sess., ch. 2 (codified as former RCW Chapter 47.06C); Laws of 2003, ch. 8 (amending that chapter). The text of former RCW Chapter 47.06C as amended in 2003 is attached as an Appendix to this brief. The law expired March 31, 2006. See Former RCW 47.06C.901; Laws of 2003, ch. 8, § 3.

³¹ Former RCW 47.06C.010.

³² Former RCW 47.06C.010 and .030(1).

³³ Former RCW 47.06C.040(1)(a) and (5).

WSDOT projects.³⁴ Pending action by the committee, the legislature authorized WSDOT to use an interim, multi-step process to streamline local permitting for its projects.³⁵ Like the pilot projects, the interim process faced the reality that local regulations could prompt changes to highway project location and design:

It is recognized that [completing local review under the interim approach] may require an iterative process with several drafts of various...applications being considered and revised, and that changes in project location or design resulting from the permit decisions of one agency may require revising applications or even reopening permit decisions of other agencies. All state and local agencies are expected...to communicate and cooperate to minimize the number of iterations required and make the process as efficient and effective as possible.³⁶

This detailed legislation would have been superfluous if the default rule in the GMA did not obligate WSDOT to comply with local development regulations that do not preclude the siting of essential public facilities.

The legislature reaffirmed the GMA's default rule when amending it in 2001 to exempt DSHS's secure community transition facilities from local development regulations. Those exemptions stopped with DSHS; they "do not affect the state's authority to site any other essential public facility under RCW 36.70A.200 *in conformance with local comprehensive*

³⁴ See Former RCW 47.06C.050 - .060.

³⁵ Former RCW 47.06C.070.

³⁶ Former RCW 47.06C.070(6).

*plans and development regulations....*³⁷ DSHS enjoys an exception for one type of facility. All other projects by all other state agencies are subject to the default rule.

- d) **The purpose of the GMA is advanced by having WSDOT cooperate and collaborate with local governments to obtain local permits.**

The underlying purpose of the GMA is furthered by reading the clear text to require WSDOT to comply with local development regulations that do not preclude the siting of essential public facilities. The GMA is founded on the principle that governments “cooperate and coordinate with one another” when it comes to shaping our landscapes.³⁸ This principle is especially germane to transportation projects—the legislature recognized the importance of those projects, acknowledged they are “typically difficult to site,”³⁹ and noted “affected jurisdictions have important interests that must be addressed....”⁴⁰ To balance these considerations, the legislature directed state agencies and local jurisdictions to collaborate and coordinate on local permits for transportation projects.⁴¹

³⁷ RCW 36.70A.103 (emphasis added). See Laws of 2001, 2nd Spec. Sess., ch. 12, § 203.

³⁸ RCW 36.70A.010.

³⁹ RCW 36.70A.200(1).

⁴⁰ RCW 36.70A.420.

⁴¹ RCW 36.70A.430.

There would be no purpose for this cooperation and coordination were it not for the default rule setting the boundaries of the field on which WSDOT and local governments are to engage. One boundary is that WSDOT may not ignore local development regulations. The other boundary is those regulations may not preclude the siting of essential public facilities. Between those boundaries, WSDOT and local governments are to follow the directive in the GMA and the Highway Act to cooperate and coordinate.

2. The City's Code fits within the statutory rule.

The City remained within the boundaries of the statutory rule when it adopted its Code and applied it to work within WSDOT's temporary construction easements. Like every other state agency that possesses no express exemption, WSDOT must comply with that development regulation.⁴²

WSDOT does not contend that applying the Code within its temporary construction easements precludes the siting of SR 520. To the contrary, the grading permits condition that WSDOT comply with its own vibration standards in the areas subject to the grading permits.

Because the legislature gave the City the authority to apply its Code to WSDOT and because doing so does not preclude the siting of

⁴² RCW 36.70A.103.

essential public facilities. WSDOT cannot sustain its burden of proving the grading permits should be overturned under LUPA.

3. WSDOT offers no valid basis for ruling the Code is unlawful.

WSDOT argued—and the trial court agreed—this deliberate and balanced statutory approach to local regulation of state highway projects is preempted by a preexisting statute authorizing WSDOT to build highways. WSDOT and the trial court believe local regulation of highway projects is a bad idea. Those arguments lack merit.

a) Local governments' regulatory authority is not preempted by WSDOT's proprietary authority.

WSDOT relies on RCW 47.01.260(1), which grants WSDOT proprietary authority over state highways:

The department of transportation shall exercise all powers and perform all the duties necessary, convenient, or incidental to the planning, locating, designing, constructing, improving, repairing, operating, and maintaining state highways....

WSDOT maintains this provision trumps the rule that state agencies must comply with local development regulations that do not preclude the siting of essential public facilities.⁴³ WSDOT is mistaken.

⁴³ Petitioner Washington State Department of Transportation's Reply Brief ("WSDOT's Reply Brief") at CP 270; CP 272. The trial court agreed with this argument. *See* Order at CP 288.

Courts harmonize statutes unless a conflict exists.⁴⁴ No conflict exists here. RCW 47.01.260(1) deals with WSDOT's proprietary authority. It answers the question: who may exercise dominion over this land and these facilities? By contrast, the GMA and related provisions of the Highway Act deal with regulatory authority, answering the question: who may oversee and place limits on how those facilities are developed? This is a simple distinction at the core of land use law: although a property owner exercises dominion over his or her land, local government may regulate how the property owner develops and uses that land. Similarly, although the legislature directs WSDOT to exercise dominion, it also allows local government to regulate.

This interpretation follows another rule of statutory construction: construe statutes so all language is given effect with no portion rendered meaningless or superfluous.⁴⁵ If WSDOT were correct that RCW 47.01.260(1) precludes local regulation of state highway projects, what meaning is left in the legislature's command that WSDOT "develop methods for initiating review of the permit applications for [highway] projects before the final design of the projects"?⁴⁶ Why would the legislature have adopted and amended an elaborate pilot project to direct a

⁴⁴ *In re Estate of Kerr*, 134 Wn.2d 328, 343, 949 P.2d 810 (1998).

⁴⁵ *State v. Keller*, 143 Wn.2d 267, 277, 19 P.3d 1030 (2001).

⁴⁶ RCW 47.01.300 (emphasis added).

“transportation and permit efficiency committee” to develop a process to “streamline and expedite permit decision making”?⁴⁷ The legislature would not have adopted meaningless language. The legislature does not believe RCW 47.01.260(1) trumps local regulatory authority.

Even if the grants of proprietary and regulatory authority conflicted, another rule of statutory construction would require the regulatory authority to prevail. “Since legislative policy changes as economic and sociological conditions change, the relevant legislative acts which are nearer in time to the enactment in question are more indicative of legislative intent than those which are more remote.”⁴⁸

RCW 47.01.260(1) was adopted in 1979 and remains unchanged.⁴⁹ The legislature adopted the GMA in 1990;⁵⁰ added the default rule about state agencies complying with local development regulations in 1991;⁵¹ directed WSDOT to work with local governments to coordinate permitting

⁴⁷ Former RCW 47.06C.040(1)(a) and (5). *See generally* Laws of 2001, 1st Spec. Sess., ch. 2 (adopting former RCW Chap. 47.06C); Laws of 2003, ch. 8 (amending that chapter).

⁴⁸ *Connick v. City of Chehalis*, 53 Wn.2d 288, 290, 333 P.2d 647 (1958). *See also State v. Joswick*, 71 Wn. App. 311, 315, 858 P.2d 280 (1993).

⁴⁹ Laws of 1979, Ex. Sess., ch. 58, § 1. The rest of the section was amended twice for unrelated matters: to authorize WSDOT to grant indemnities; and to cross-reference a statute about the authority of diking districts to perform maintenance work on WSDOT property. Laws of 1983, ch. 29, § 1; Laws of 2006, ch. 368, § 2.

⁵⁰ Laws of 1990, ch. 17, § 1.

⁵¹ Laws of 1992, Spec. Sess., ch. 32, § 4.

in 1994;⁵² and adopted and amended the “transportation and permit efficiency committee” pilot project in 2001⁵³ and 2003.⁵⁴ Those more recent enactments manifest the legislature’s intent about local regulation of highway projects. The 1979 law does not.

The case law WSDOT mustered below does not support its contention that RCW 47.01.260(1) preempts the multiple provisions directing WSDOT to comply with local development regulations that do not preclude the siting of essential public facilities. First, the 1965 decision in *Deaconess* did not address laws adopted more than a quarter century later.⁵⁵ *Deaconess* merely held that a private hospital could not use a nuisance action to enjoin construction of Interstate 90.⁵⁶ That holding is irrelevant to a local government’s use of its land use regulatory authority.

Second, the 1980 decision in *Seattle Building and Construction Trades Council* likewise addressed a different issue, holding that a local initiative could not determine whether Interstate 90 would be expanded

⁵² Laws of 1994, ch. 258, § 2.

⁵³ Laws of 2001, 1st Spec. Sess., ch. 2, §§ 5-6.

⁵⁴ Laws of 2003, ch. 8.

⁵⁵ *Deaconess Hosp. v. Washington State Highway Comm’n*, 66 Wn.2d 378, 393, 403 P.2d 54 (1965). See WSDOT’s Reply Brief at CP 270-271.

⁵⁶ *Id.* at 408.

when state law determined where highways would be built.⁵⁷ Even though that decision did not deal with post-GMA law adopted more than a decade later, the decision follows that later-enacted law: local laws may not preclude the siting of essential public facilities.⁵⁸ That law does not apply here, where the Code does not preclude WSDOT from putting SR 520 exactly where WSDOT wants to.

Finally, *Residents Opposed to Kittitas Turbines* offers no lesson here.⁵⁹ That decision addressed a different statute with clear preemption language:

The state hereby preempts the regulation and certification of the location, construction, and operational conditions of certification of the energy facilities included under RCW 80.50.060 as now or hereafter amended.⁶⁰

No such preemption language exists for WSDOT to avoid the clear rule that it must comply with local development regulations that do not preclude the siting of essential public facilities. Had the legislature intended WSDOT to be free of local regulation, it would have adopted a provision like the one at issue in *Residents Opposed to Kittitas Turbines* or

⁵⁷ *Seattle Bldg. and Constr. Trades Council v. City of Seattle*, 94 Wn.2d 740, 747-48, 620 P.2d 82 (1980). See WSDOT's Reply Brief at CP 272; Washington State Department of Transportation's Opening Brief ("WSDOT's Opening Brief") at CP 201-202.

⁵⁸ RCW 36.70A.103 and .200(1).

⁵⁹ *Residents Opposed to Kittitas Turbines v. State Energy Facility Site Evaluation Council (EFSEC)*, 165 Wn.2d 275, 308, 197 P.3d 1153 (2008). See WSDOT's Reply Brief at CP 273.

⁶⁰ RCW 80.50.110(2).

the preemption authority for DSHS's secure community transition facilities.⁶¹ The legislature did not. Instead, the legislature said what it meant: WSDOT is subject to local development regulation and should coordinate permitting with local jurisdictions.

b) WSDOT's policy arguments lack merit.

WSDOT's policy arguments fare no better than its legal ones. WSDOT claims that requiring it to comply with local development regulations would "allow a local agency without expertise to supersede" WSDOT's authority to build highways.⁶² For example, WSDOT argued that local jurisdictions implement the International Building Code, which does not contain standards for highway and bridge construction.⁶³ Echoing that argument, the trial court reasoned that to allow any local government regulation of WSDOT activities would foster "mischief" with important projects.⁶⁴

Those concerns are not germane to this dispute. Because the Code does not apply within highway rights-of-way and does not regulate structures, the City did not review any bridge or highway design. No

⁶¹ See RCW 36.70A.103(1) (citing RCW 71.09.250(1) - (3), RCW 71.09.342, and RCW 72.09.333).

⁶² WSDOT's Reply Brief at CP 275.

⁶³ *Id.* at CP 274-275.

⁶⁴ Verbatim Transcript of Proceedings at 56:16-18. See also Order at CP 288 ("the grading permit requirement could in other circumstances result in conflicting standards being applied to a single state highway construction contract").

mischief occurred here. The City merely required WSDOT to obtain grading permits for work outside its right-of-way, conditioned the permits on standards WSDOT applies elsewhere, and allowed WSDOT's grading work to proceed with no claim from WSDOT of any practical impact on its project. Indeed, even beyond the Code there is no contention that the City purports to dictate how WSDOT designs or develops highways.

Any argument about who should control or regulate highway design and construction should be directed to the legislature. Although the trial court may dismiss local land use regulation as "mischief," the legislature takes a more balanced view:

The legislature recognizes that there are major transportation projects that affect multiple jurisdictions as to...land use implications.... The legislature further recognizes that affected jurisdictions have important interests that must be addressed, and that these jurisdictions' present...permitting authority may result in multiple local permits and other requirements being specified for the projects.⁶⁵

The potential for conflict exists. The legislature addressed it through a balanced, deliberate approach the City respects. This Court should decline WSDOT's invitation to invent a new approach to this important policy issue.

⁶⁵ RCW 36.70A.420.

B. The Code regulates work outside a “highway right-of-way” in the adjacent temporary construction easements.

WSDOT argued—and the trial court agreed—that even if the Code were not preempted, it would not apply to the temporary construction easements because the Code exempts work within highway rights-of-way. WSDOT and the trial court misconstrue the meaning of “highway right-of-way.”

- 1. “Highway right-of-way” is a strip of land, any portion of which is open as a matter of right to public vehicular travel.**

Under the Code, grading outside a “highway right-of-way” requires a grading permit.⁶⁶ Even though the Code does not define “highway right-of-way,” its meaning can be discerned from its plain and unambiguous language.⁶⁷

City law defines “right-of-way” in terms of a strip for conveyance across distance: “a strip of land platted, dedicated, condemned, established by prescription or otherwise legally established for the use of pedestrians, vehicles, or utilities.”⁶⁸ A “highway” is a particular type of strip along

⁶⁶ SMC 22.170.060.A.2.a (reproduced at CP 252).

⁶⁷ See *Gorre v. City of Tacoma*, 180 Wn. App. 729, 732, 324 P.3d 716 (2014) (if a statute’s meaning is plain on its face a court will give effect to that plain meaning as an expression of legislative intent)).

⁶⁸ SMC 23.84A.032 (reproduced at CP 260). The Washington State Supreme Court said right-of-way is “a common expression occurring so frequently that it may be said that its meaning is well understood by intelligent persons generally, and that it is understood to be the right of a person to travel over a particular tract of land without

some portion of which vehicles may travel: “the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.”⁶⁹ Putting those two definitions together, the “highway right-of-way” here is the strip of land comprising SR 520 (a “right-of-way”), a portion of which is open as a matter of right to public vehicular travel (a “highway”).

2. The SR 520 highway right-of-way does not include the temporary construction easements.

The temporary construction easements are not part of the SR 520 highway right-of-way. The easements are not a strip of land for conveyance; they are distinct parcels adjacent to a strip of land.⁷⁰ The public has no right to travel over any portion of those distinct parcels; access to them is limited by the terms of the easements, which are for construction.⁷¹ WSDOT itself distinguished the SR 520 highway right-of-

interference.” *Kalinowski v. Jacobowski*, 52 Wn. 359, 362, 100 P. 852 (1909)). See also *Ryan Mercantile Co. v. Great Northern Ry. Co.*, 294 F.2d 629, 638 (9th Cir. 1961) (“The term ‘right of way’ is defined as meaning a right of passage over another person’s land, and it has been said that this definition has been so universally incorporated into innumerable decisions that it may be said to be generally accepted.”).

⁶⁹ SMC 11.14.245 (“‘Highway’ means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.”). Accord RCW 46.04.197 (same definition); RCW 47.04.010(11) (“Every way, lane, road, street, boulevard, and every way or place in the state of Washington open as a matter of right to public vehicular travel...”).

⁷⁰ CP 43-49, 51, 99-104.

⁷¹ CP at 53 (purpose of easement is to allow “construction-related activities”); CP at 60 (same); CP at 72 (same). See *Sanders v. City of Seattle*, 160 Wn.2d 198, 214-15, 156

way from the temporary construction easements when it delineated the SR 520 highway right-of-way boundary as “limited access,” and showed the temporary construction easements outside the highway boundary.⁷²

By contrast, in the SR 520 project areas where WSDOT includes abutting property as part of the highway right-of-way, WSDOT identified them as “proposed R/W [right-of-way] acquisition.”⁷³ WSDOT’s acquisition of additional highway right-of-way for the SR 520 project follows the statutory requirement that, as a limited access highway right-of-way, “all property rights...shall be in fee simple.”⁷⁴ The construction easements are not fee simple acquisitions—a requirement to being included in the SR 520 limited-access highway right-of-way.

3. WSDOT offers no valid basis for ruling that the construction easements constitute highway right-of-way.

To support its argument that the temporary construction easements are highway right-of-way, WSDOT invokes its authority to acquire interests in land:

Whenever it is necessary to secure any lands or interests in land for a *right-of-way for any state highway*, . . . or any

P.3d 874, 882-83 (2007) (“The extent of an easement, like any other conveyance of rights in real property, is fixed by the language of the instrument granting the right.”).

⁷² CP at 43-49, 51, 99-104. See RCW 47.52.010 (“limited access facility” is a highway designed for through traffic).

⁷³ CP at 49.

⁷⁴ RCW 47.52.050(1).

site for the construction and maintenance of structures and facilities adjacent to, under, upon, within, or above the right-of-way of any state highway . . . or for any other highway purpose, together with *right-of-way* to reach such property and gain access thereto, the department of transportation is authorized to acquire such lands. . . .⁷⁵

This provision disproves WSDOT's point.

The text allows WSDOT to acquire three categories of land:

(1) highway right-of-way; (2) sites for constructing and maintaining structures for highway right-of-way; and (3) right-of-way to reach the first two categories.

The construction easements fall into the second category: they are "sites" for constructing structures in the SR 520 right-of-way. The easements cannot fairly be considered strips for conveyance across distance, so they are not right-of-way within the meaning of the first and third categories. Most crucially, because no portion of the easements is open as a matter of right to public vehicular travel, they cannot constitute "highway" right-of-way within the meaning of the first category.⁷⁶

WSDOT argued that according to the City's definition, features of state highways not open to the public must be excluded from "highway

⁷⁵ WSDOT's Opening Brief at CP 194, citing RCW 47.12.010.

⁷⁶ See RCW 47.04.010(11) (defining "highway" as a way "open as a matter of right to public vehicular travel"). See also RCW 47.04.010 (the definitions in that section generally apply to all of Title 47).

right-of-way” and be subject to City regulation.⁷⁷ WSDOT noted such restricted-access features as: drainage ditches, medians, and barriers adjoining travel lanes; highway bridge substructures and superstructures; and the floating pontoons for the SR 520 bridge.⁷⁸

WSDOT misses the point. For a right-of-way to constitute a “highway,” only a portion of the strip must be open to the public for vehicular travel. Not every square foot of the strip must be open to everyone. Highway right-of-way may include slopes, medians, ditches, signs, girders, and pontoons closed to the public. The presence or absence of these features does not determine whether the strip is highway right-of-way. What matters is that a portion of the strip is open as a matter of right to public vehicular travel.

WSDOT attacks another straw man by proclaiming “highway right-of-way consists of more than the paved roadway.”⁷⁹ The City agrees. A “highway right-of-way” may comprise more than the paved roadway. But that does not advance WSDOT’s case here, where the temporary construction easements are not a portion of the highway right-of-way containing the paved roadway.

⁷⁷ See WSDOT’s Reply Brief at CP 268-269.

⁷⁸ *Id.*

⁷⁹ *Id.* at CP 265-268.

WSDOT is unable to convert its construction easements into SR 520 “highway right-of way” within the meaning of the Code. The construction easements are not part of a strip of land and no portion of the easements is open to the traveling public.

V. CONCLUSION

The legislature took a deliberate and balanced approach to regulating highway construction when it required state agencies to comply with local development regulations, precluded local jurisdictions from preventing the siting of essential public facilities, recognized local jurisdictions’ authority over highway projects, and repeatedly directed WSDOT to work cooperatively with local governments to obtain local permits. The City’s Code respects this statutory structure. WSDOT cannot sweep aside that careful approach to regulatory policy by invoking a pre-existing statute giving WSDOT proprietary control over state highways.

WSDOT cannot fit its construction easements into the Code’s exemption for work within a “highway right-of way.” The construction easements are distinct parcels that even WSDOT shows as outside the SR 520 highway right-of-way. The easements cannot constitute “highway right-of-way” because none is a strip of land some portion of which is open to public vehicular travel.

Because WSDOT cannot sustain its burden of proof under LUPA,
the City respectfully asks this Court to reverse the trial court's decision
granting WSDOT's petition.

DATED this 24th day of April, 2015.

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RCW 36.70A.103

State agencies required to comply with comprehensive plans.

State agencies shall comply with the local comprehensive plans and development regulations and amendments thereto adopted pursuant to this chapter except as otherwise provided in RCW 71.09.250 (1) through (3), 71.09.342, and 72.09.333.

The provisions of chapter 12, Laws of 2001 2nd sp. sess. do not affect the state's authority to site any other essential public facility under RCW 36.70A.200 in conformance with local comprehensive plans and development regulations adopted pursuant to chapter 36.70A RCW.

[2002 c 68 § 15; 2001 2nd sp.s. c 12 § 203; 1991 sp.s. c 32 § 4.]

Notes:

Purpose -- Severability -- Effective date -- 2002 c 68: See notes following RCW 36.70A.200.

Intent -- Severability -- Effective dates -- 2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

Appendices

RCW 36.70A.200**Siting of essential public facilities — Limitation on liability.**

(1) The comprehensive plan of each county and city that is planning under RCW 36.70A.040 shall include a process for identifying and siting essential public facilities. Essential public facilities include those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities as defined in RCW 47.06.140, regional transit authority facilities as defined in RCW 81.12.020, state and local correctional facilities, solid waste handling facilities, and inpatient facilities including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities as defined in RCW 71.09.020.

(2) Each county and city planning under RCW 36.70A.040 shall, not later than September 1, 2002, establish a process, or amend its existing process, for identifying and siting essential public facilities and adopt or amend its development regulations as necessary to provide for the siting of secure community transition facilities consistent with statutory requirements applicable to these facilities.

(3) Any city or county not planning under RCW 36.70A.040 shall, not later than September 1, 2002, establish a process for siting secure community transition facilities and adopt or amend its development regulations as necessary to provide for the siting of such facilities consistent with statutory requirements applicable to these facilities.

(4) The office of financial management shall maintain a list of those essential state public facilities that are required or likely to be built within the next six years. The office of financial management may at any time add facilities to the list.

(5) No local comprehensive plan or development regulation may preclude the siting of essential public facilities.

(6) No person may bring a cause of action for civil damages based on the good faith actions of any county or city to provide for the siting of secure community transition facilities in accordance with this section and with the requirements of chapter 12, Laws of 2001 2nd sp. sess. For purposes of this subsection, "person" includes, but is not limited to, any individual, agency as defined in RCW 42.17A.005, corporation, partnership, association, and limited liability entity.

(7) Counties or cities siting facilities pursuant to subsection (2) or (3) of this section shall comply with RCW 71.09.341.

(8) The failure of a county or city to act by the deadlines established in subsections (2) and (3) of this section is not:

(a) A condition that would disqualify the county or city for grants, loans, or pledges under RCW 43.155.070 or 70.146.070;

(b) A consideration for grants or loans provided under RCW 43.17.250(3); or

(c) A basis for any petition under RCW 36.70A.280 or for any private cause of action.

[2013 c 275 § 5; 2011 c 60 § 17; 2010 c 62 § 1; 2002 c 68 § 2; 2001 2nd sp.s. c 12 § 205; 1998 c 171 § 3; 1991 sp.s. c 32 § 1.]

Notes:

Effective date -- 2011 c 60: See RCW 42.17A.919.

Purpose -- 2002 c 68: "The purpose of this act is to:

(1) Enable the legislature to act upon the recommendations of the joint select committee on the equitable distribution of secure community transition facilities established in section 225, chapter 12, Laws of 2001 2nd sp. sess.; and

(2) Harmonize the preemption provisions in RCW 71.09.250 with the preemption provisions applying to future secure community transition facilities to reflect the joint select committee's recommendation that the preemption granted for future secure community transition facilities be the same throughout the state." [2002 c 68 § 1.]

Severability -- 2002 c 68: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2002 c 68 § 19.]

Effective date -- 2002 c 68: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 21, 2002]." [2002 c 68 § 20.]

Intent -- Severability -- Effective dates -- 2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

RCW 36.70A.420**Transportation projects — Findings — Intent.**

The legislature recognizes that there are major transportation projects that affect multiple jurisdictions as to economic development, fiscal influence, environmental consequences, land use implications, and mobility of people and goods. The legislature further recognizes that affected jurisdictions have important interests that must be addressed, and that these jurisdictions' present environmental planning and permitting authority may result in multiple local permits and other requirements being specified for the projects.

The legislature finds that the present permitting system may result in segmented and sequential decisions by local governments that do not optimally serve all the parties with an interest in the decisions. The present system may also make more difficult achieving the consistency among plans and actions that is an important aspect of this chapter.

It is the intent of the legislature to provide for more efficiency and equity in the decisions of local governments regarding major transportation projects by encouraging coordination or consolidation of the processes for reviewing environmental planning and permitting requirements for those projects. The legislature intends that local governments coordinate their regulatory decisions by considering together the range of local, state, and federal requirements for major transportation projects. Nothing in RCW 36.70A.420 or 36.70A.430 alters the authority of cities or counties under any other planning or permitting statute.

[1994 c 258 § 1.]

Notes:

Captions not law -- 1994 c 258: "Section captions used in this act constitute no part of the law." [1994 c 258 § 6.]

RCW 36.70A.430

Transportation projects — Collaborative review process.

For counties engaged in planning under this chapter, there shall be established by December 31, 1994, a collaborative process to review and coordinate state and local permits for all transportation projects that cross more than one city or county boundary. This process shall at a minimum, establish a mechanism among affected cities and counties to designate a permit coordinating agency to facilitate multijurisdictional review and approval of such transportation projects.

[1994 c 258 § 2.]

Notes:

Captions not law -- 1994 c 258: See note following RCW 36.70A.420.

RCW 47.01.260**Authority of department.**

(1) The department of transportation shall exercise all the powers and perform all the duties necessary, convenient, or incidental to the planning, locating, designing, constructing, improving, repairing, operating, and maintaining state highways, including bridges and other structures, culverts, and drainage facilities and channel changes necessary for the protection of state highways, and shall examine and allow or disallow bills, subject to the provisions of RCW 85.07.170, for any work or services performed or materials, equipment, or supplies furnished.

(2) Subject to the limitations of RCW 4.24.115, the department, in the exercise of any of its powers, may include in any authorized contract a provision for indemnifying the other contracting party against specific loss or damages arising out of the performance of the contract.

(3) The department is authorized to acquire property as provided by law and to construct and maintain thereon any buildings or structures necessary or convenient for the planning, design, construction, operation, maintenance, and administration of the state highway system and to acquire property and to construct and maintain any buildings, structures, appurtenances, and facilities necessary or convenient to the health and safety and for the accommodation of persons traveling upon state highways.

(4) The department is authorized to engage in planning surveys and may collect, compile, and analyze statistics and other data relative to existing and future highways and highway needs throughout the state, and shall conduct research, investigations, and testing as it deems necessary to improve the methods of construction and maintenance of highways and bridges.

[2006 c 368 § 2; 1983 c 29 § 1; 1979 ex.s. c 58 § 1.]

RCW 47.01.300

Environmental review of transportation projects — Cooperation with other environmental regulatory authorities.

The department shall, in cooperation with environmental regulatory authorities:

- (1) Identify and document environmental resources in the development of the statewide multimodal plan under RCW 47.06.040;
- (2) Allow for public comment regarding changes to the criteria used for prioritizing projects under chapter 47.05 RCW before final adoption of the changes by the commission;
- (3) Use an environmental review as part of the project prospectus identifying potential environmental impacts, mitigation, the utilization of the mitigation option available in RCW 90.74.040, and costs during the early project identification and selection phase, submit the prospectus to the relevant environmental regulatory authorities, and maintain a record of comments and proposed revisions received from the authorities;
- (4) Actively work with the relevant environmental regulatory authorities during the design alternative analysis process and seek written concurrence from the authorities that they agree with the preferred design alternative selected;
- (5) Develop a uniform methodology, in consultation with relevant environmental regulatory authorities, for submitting plans and specifications detailing project elements that impact environmental resources, and proposed mitigation measures including the mitigation option available in RCW 90.74.040, to the relevant environmental regulatory authorities during the preliminary specifications and engineering phase of project development;
- (6) Screen construction projects to determine which projects will require complex or multiple permits. The permitting authorities shall develop methods for initiating review of the permit applications for the projects before the final design of the projects;
- (7) Conduct special prebid meetings for those projects that are environmentally complex; and
- (8) Review environmental considerations related to particular projects during the preconstruction meeting held with the contractor who is awarded the bid.

[2012 c 62 § 1; 1994 c 258 § 4.]

Notes:

Captions not law -- 1994 c 258: See note following RCW 36.70A.420.

RCW 47.04.010**Definitions.**

The following words and phrases, wherever used in this title, shall have the meaning as in this section ascribed to them, unless where used the context thereof shall clearly indicate to the contrary or unless otherwise defined in the chapter of which they are a part:

(1) "Alley." A highway within the ordinary meaning of alley not designated for general travel and primarily used as a means of access to the rear of residences and business establishments;

(2) "Arterial highway." Every highway, as herein defined, or portion thereof designated as such by proper authority;

(3) "Business district." The territory contiguous to and including a highway, as herein defined, when within any six hundred feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings, railroad stations, and public buildings which occupy at least three hundred feet of frontage on one side or three hundred feet collectively on both sides of the highway;

(4) "Center line." The line, marked or unmarked parallel to and equidistant from the sides of a two-way traffic roadway of a highway except where otherwise indicated by painted lines or markers;

(5) "Center of intersection." The point of intersection of the center lines of the roadways of intersecting highways;

(6) "City street." Every highway as herein defined, or part thereof located within the limits of incorporated cities and towns, except alleys;

(7) "Combination of vehicles." Every combination of motor vehicle and motor vehicle, motor vehicle and trailer, or motor vehicle and semitrailer;

(8) "Commercial vehicle." Any vehicle the principal use of which is the transportation of commodities, merchandise, produce, freight, animals, or passengers for hire;

(9) "County road." Every highway as herein defined, or part thereof, outside the limits of incorporated cities and towns and which has not been designated as a state highway, or branch thereof;

(10) "Crosswalk." The portion of the roadway between the intersection area and a prolongation or connection of the farthest sidewalk line or in the event there are no sidewalks then between the intersection area and a line ten feet therefrom, except as modified by a marked crosswalk;

(11) "Highway." Every way, lane, road, street, boulevard, and every way or place in the state of Washington open as a matter of right to public vehicular travel both inside and outside the limits of incorporated cities and towns;

(12) "Intersection area." (a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two or more highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict;

(b) Where a highway includes two roadways thirty feet or more apart, then every crossing of each

roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways thirty feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection;

(c) The junction of an alley with a street or highway shall not constitute an intersection;

(13) "Intersection control area." The intersection area as herein defined, together with such modification of the adjacent roadway area as results from the arc or curb corners and together with any marked or unmarked crosswalks adjacent to the intersection;

(14) "Laned highway." A highway the roadway of which is divided into clearly marked lanes for vehicular traffic;

(15) "Local authorities." Every county, municipal, or other local public board or body having authority to adopt local police regulations under the Constitution and laws of this state;

(16) "Marked crosswalk." Any portion of a roadway distinctly indicated for pedestrian crossing by lines or other markings on the surface thereof;

(17) "Metal tire." Every tire, the bearing surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material;

(18) "Motor truck." Any motor vehicle, as herein defined, designed or used for the transportation of commodities, merchandise, produce, freight, or animals;

(19) "Motor vehicle." Every vehicle, as herein defined, which is in itself a self-propelled unit;

(20) "Multiple lane highway." Any highway the roadway of which is of sufficient width to reasonably accommodate two or more separate lanes of vehicular traffic in the same direction, each lane of which shall be not less than the maximum legal vehicle width, and whether or not such lanes are marked;

(21) "Operator." Every person who drives or is in actual physical control of a vehicle as herein defined;

(22) "Peace officer." Any officer authorized by law to execute criminal process or to make arrests for the violation of the statutes generally or of any particular statute or statutes relative to the highways of this state;

(23) "Pedestrian." Any person afoot or who is using a wheelchair, power wheelchair as defined in RCW 46.04.415, or a means of conveyance propelled by human power other than a bicycle;

(24) "Person." Every natural person, firm, copartnership, corporation, association, or organization;

(25) "Personal wireless service." Any federally licensed personal wireless service;

(26) "Personal wireless service facilities." Unstaffed facilities that are used for the transmission or reception, or both, of personal wireless services including, but not necessarily limited to, antenna arrays, transmission cables, equipment shelters, and support structures;

(27) "Pneumatic tires." Every tire of rubber or other resilient material designed to be inflated with compressed air to support the load thereon;

(28) "Private road or driveway." Every way or place in private ownership and used for travel of

vehicles by the owner or those having express or implied permission from the owner, but not by other persons;

(29) "Railroad." A carrier of persons or property upon vehicles, other than streetcars, operated upon stationary rails, the route of which is principally outside incorporated cities and towns;

(30) "Railroad sign or signal." Any sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train;

(31) "Residence district." The territory contiguous to and including the highway, as herein defined, not comprising a business district, as herein defined, when the property on such highway for a continuous distance of three hundred feet or more on either side thereof is in the main improved with residences or residences and buildings in use for business;

(32) "Roadway." The paved, improved, or proper driving portion of a highway designed, or ordinarily used for vehicular travel;

(33) "Safety zone." The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is marked or indicated by painted marks, signs, buttons, standards, or otherwise so as to be plainly discernible;

(34) "Sidewalk." That property between the curb lines or the lateral lines of a roadway, as herein defined, and the adjacent property, set aside and intended for the use of pedestrians or such portion of private property parallel and in proximity to a highway and dedicated to use by pedestrians;

(35) "Solid tire." Every tire of rubber or other resilient material which does not depend upon inflation with compressed air for the support of the load thereon;

(36) "State highway." Every highway as herein defined, or part thereof, which has been designated as a state highway, or branch thereof, by legislative enactment;

(37) "Streetcar." A vehicle other than a train, as herein defined, for the transporting of persons or property and operated upon stationary rails principally within incorporated cities and towns;

(38) "Traffic." Pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances either singly or together while using any highways for purposes of travel;

(39) "Traffic control signal." Any traffic device, as herein defined, whether manually, electrically, or mechanically operated, by which traffic alternately is directed to stop or proceed or otherwise controlled;

(40) "Traffic devices." All signs, signals, markings, and devices not inconsistent with this title placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic;

(41) "Train." A vehicle propelled by steam, electricity, or other motive power with or without cars coupled thereto, operated upon stationary rails, except street cars;

(42) "Vehicle." Every device capable of being moved upon a highway and in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting power wheelchairs, as defined in RCW 46.04.415, or devices moved by human or animal power or used exclusively upon stationary rails or tracks.

Words and phrases used herein in the past, present, or future tense shall include the past, present, and future tenses; words and phrases used herein in the masculine, feminine, or neuter gender shall include the masculine, feminine, and neuter genders; and words and phrases used herein in the singular or plural shall include the singular and plural; unless the context thereof shall indicate to the contrary.

[2003 c 244 § 2; 2003 c 141 § 8; 1975 c 62 § 50; 1967 ex.s. c 145 § 42; 1961 c 13 §47.04.010 . Prior: 1937 c 53 § 1; RRS § 6400-1.]

Notes:

Reviser's note: This section was amended by 2003 c 141 § 8 and by 2003 c 244 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability -- 1975 c 62: See note following RCW 36.75.010.

Aeronautics, definitions relating to: RCW 47.68.020.

Canal, defined: RCW 47.72.060.

Department, commission, secretary -- Defined: RCW 47.01.021.

Ferry workers, marine employees, definitions relating to: RCW 47.64.011.

Junkyards, definitions relating to: RCW 47.41.020.

Limited access facilities, definitions relating to: RCW 46.52.010.

Signs and scenic vistas, definitions relating to: RCW 47.42.020.

Toll bridges, roads, definitions relating to: RCW 47.56.010.

Urban arterials, definitions relating to: RCW 47.26.040, 47.26.090, 47.26.100, 47.26.110.

Urban public transportation systems -- Defined: RCW 47.04.082.

RCW 47.12.010**Acquisition of property authorized — Condemnation actions — Cost.**

Whenever it is necessary to secure any lands or interests in land for a right-of-way for any state highway, or for the drainage thereof or construction of a protection therefor or so as to afford unobstructed vision therefor toward any railroad crossing or another public highway crossing or any point of danger to public travel or to provide a visual or sound buffer between highways and adjacent properties or for the purpose of acquiring sand pits, gravel pits, borrow pits, stone quarries, or any other land for the extraction of materials for construction or maintenance or both, or for any site for the erection upon and use as a maintenance camp, of any state highway, or any site for other necessary structures or for structures for the health and accommodation of persons traveling or stopping upon the state highways of this state, or any site for the construction and maintenance of structures and facilities adjacent to, under, upon, within, or above the right-of-way of any state highway for exclusive or nonexclusive use by an urban public transportation system, or for any other highway purpose, together with right-of-way to reach such property and gain access thereto, the department of transportation is authorized to acquire such lands or interests in land in behalf of the state by gift, purchase, or condemnation. In case of condemnation to secure such lands or interests in land, the action shall be brought in the name of the state of Washington in the manner provided for the acquiring of property for the public uses of the state, and in such action the selection of the lands or interests in land by the secretary of transportation shall, in the absence of bad faith, arbitrary, capricious, or fraudulent action, be conclusive upon the court and judge before which the action is brought that said lands or interests in land are necessary for public use for the purposes sought. The cost and expense of such lands or interests in land may be paid as a part of the cost of the state highway for which such right-of-way, drainage, unobstructed vision, sand pits, gravel pits, borrow pits, stone quarries, maintenance camp sites, and structure sites or other lands are acquired.

[1977 ex.s. c 151 § 46; 1967 c 108 § 4; 1961 c 13 § 47.12.010. Prior: 1937 c 53 § 25, part; RRS § 6400-25, part.]

Notes:

Urban public transportation system defined: RCW 47.04.082.

Right-of-way donations: Chapter 47.14 RCW.

- (4) Identify community resources and needs;
- (5) Prepare a plan for developing a coordinated transportation system that meets the intent of this chapter, addresses community needs, and efficiently uses community resources to address unmet needs;
- (6) Implement the community coordinated transportation plan;
- (7) Develop performance measures consistent with council guidelines;
- (8) Develop a reporting process consistent with council guidelines;
- (9) Raise issues and barriers to the council when resolution is needed at either the state or federal level;
- (10) Develop a process for open discussion and input on local policy and facility siting decisions that may have an impact on the special needs transportation costs and service delivery of other programs and agencies in the community. [1999 c 385 § 6.]

47.06B.900 Council—Termination. The agency council on coordinated transportation is terminated on June 30, 2007, as provided in RCW 47.06B.901. [1999 c 385 § 7; 1998 c 173 § 6.]

47.06B.901 Repealer. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2008:

- (1) RCW 47.06B.010 and 1999 c 385 § 1 & 1998 c 173 § 1;
- (2) RCW 47.06B.012 and 1999 c 385 § 2;
- (3) RCW 47.06B.015 and 1999 c 385 § 3;
- (4) RCW 47.06B.020 and *1999 c 385 § 4 & 1998 c 173 § 2;
- (5) RCW 47.06B.030 and 1999 c 385 § 5 & 1998 c 173 § 3; and
- (6) RCW 47.06B.040 and 1999 c 385 § 6. [1999 c 385 § 8; 1998 c 173 § 7.]

*Reviser's note: 1999 c 385 § 4 was vetoed.

Chapter 47.06C RCW

PERMIT EFFICIENCY AND ACCOUNTABILITY

Sections

47.06C.010	Findings—Intent.
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47.06C.090	Training and compliance.
47.06C.100	Cost reimbursement.
47.06C.900	Captions not law—2001 1st sp.s. c 2.
47.06C.901	Expiration date—2001 1st sp.s. c 2.
47.06C.902	Effective date—2001 1st sp.s. c 2.
47.06C.903	Severability—2001 1st sp.s. c 2.

47.06C.010 Findings—Intent. (*Expires March 31, 2006.*) The legislature finds that the public health and safety of its citizens, the natural resources, and the environment are vital interests of the state that need to be protected and preserved. The legislature further finds that the safety of the

traveling public and the state's economic well-being are vital interests that depend upon the development of cost-effective and efficient transportation systems planned, designed, constructed, and maintained through expedited permit decision-making processes.

It is the intent of the legislature to achieve transportation permit reform that expedites the delivery of transportation projects through a streamlined approach to environmental permit decision making. To optimize the limited resources available for transportation system improvements and environmental protection, state regulatory and natural resource agencies, public and private sector interests, Indian tribes, local and regional governments, applicable federal agencies, and the department of transportation must work cooperatively to establish common goals, minimize project delays, develop consistency in the application of environmental standards, maximize environmental benefits through coordinated investment strategies, and eliminate duplicative processes through assigned responsibilities of selected permit drafting and compliance activities between state and federal agencies.

Therefore, the transportation permit efficiency and accountability committee is created. The committee shall integrate current environmental standards, but may not create new environmental standards. The committee shall conduct three environmental permit streamlining pilot projects and create a process to develop general permits. Additionally, the committee shall seek federal delegation to the state where appropriate to streamline transportation projects. [2003 c 8 § 1; 2001 1st sp.s. c 2 § 1.]

Effective date—2003 c 8: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 31, 2003]." [2003 c 8 § 4.]

47.06C.020 Definitions. (*Expires March 31, 2006.*) The definitions in this section apply throughout this chapter unless the context indicates otherwise.

(1) "Assigned responsibilities" means those components of developing and implementing environmental permits, including but not limited to, environmental review and assessment, selected permit drafting, and selected on-site compliance activities that may be conducted by the department.

(2) "Best available information" means the existing sources of data, including limiting factors analyses required under chapter 77.85 RCW that can be used to make informed decisions regarding environmental conditions within a watershed.

(3) "Best management practices" means currently available and generally accepted techniques, including new technologies or strategies that seek to reduce the negative impacts of transportation facilities, projects, and services on communities and the environment, and promote more efficient and effective use of transportation facilities.

(4) "Committee" means the transportation permit efficiency and accountability committee created in RCW 47.06C.030.

(5) "Least cost planning" means the use of best available information within a watershed basin applied to transportation decision making in the planning, permit decision making, and mitigation phases of a project.

(6) "Low-impact development project" means an activity or series of actions that conform to a comprehensive land use planning and engineering design approach with a goal of maintaining or restoring existing natural habitat functions and hydrologic regime of urban and developing watersheds. These projects incorporate strategic watershed planning with site-specific management techniques to reduce development impacts to better replicate natural watershed hydrology and water quality, while allowing for development or infrastructure rehabilitation to occur.

(7) "One-stop permit decision making" means a coordinated permit decision-making process that streamlines environmental review and permit decision making for transportation projects by providing concurrent, consolidated review by each agency required to review the project.

(8) "Programmatic approach" means a permit or other action that covers a geographic or statewide area and applies to a variety of projects, activities, or locales. A programmatic approach may allow actions to proceed without individual approval by each permit decision-making agency.

(9) "Transportation project of statewide significance" means a surface transportation project or combination of surface transportation projects, that crosses multiple city or county jurisdictional boundaries or connects major state destinations in support of the state's economy and is so designated by the department of transportation and approved by the transportation committees of the senate and house of representatives. The transportation committees of the senate and house of representatives may also jointly designate these projects. The pilot projects established in this chapter are examples of transportation projects of statewide significance, but transportation projects of statewide significance are not limited to the pilot projects.

(10) "Watershed" means a water resource inventory area. [2001 1st sp.s. c 2 § 2.]

47.06C.030 Transportation permit efficiency and accountability committee. (*Expires March 31, 2006.*) The transportation permit efficiency and accountability committee is created.

(1) The committee consists of nine voting members, including two members from the house of representatives, one from each of the two largest caucuses; two senators, one from each of the two largest caucuses; one member designated by the secretary of transportation; one member designated by the director of fish and wildlife; one member designated by the director of ecology; one member designated by the Association of Washington Cities; and one member designated by the Washington State Association of Counties. The committee shall elect a chair from the four legislators appointed to the committee.

(2) The committee also includes eight nonvoting members, including one member designated by the Northwest Indian Fisheries Commission; one member designated by the Columbia River Intertribal Fisheries Commission; one member designated by the Consulting Engineers Council of Washington; one member designated by the Associated General Contractors of Washington; one member designated by the Association of Washington Business; one member designated by the Washington State Building and Construction Trades Council; one member designated by statewide envi-

ronmental organizations; and one member designated by the State Fish and Wildlife Commission, to represent the interests of citizens engaged in fish and wildlife recovery.

(3) A representative from the department of natural resources and representatives from federal regulatory and transportation agencies, including the Environmental Protection Agency, National Marine Fisheries Service, United States Army Corps of Engineers, Federal Highways Administration, and United States Fish and Wildlife Service must be invited to participate in committee deliberations as nonvoting members.

(4) The committee may create technical subcommittees as needed. Technical subcommittees created for a specific pilot project or pilot projects must include, but are not limited to, representatives of local governments from jurisdictions affected by those projects. Recommendations made by a technical subcommittee must be approved by a majority of the voting members of the committee.

(5) Nonvoting members will not be compensated but will receive reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(6) The department of transportation office of environmental affairs shall provide administrative and clerical assistance to the committee.

(7) No vote of the committee may overrule existing statutes, regulations, or local ordinances. [2001 1st sp.s. c 2 § 3.]

47.06C.040 Committee responsibilities. (*Expires March 31, 2006.*) (1)(a) The committee and its authorized technical subcommittees shall develop a one-stop permit decision-making process that uses interdisciplinary review of transportation projects of statewide significance to streamline and expedite permit decision making. The committee shall collaborate with appropriate agencies and parties to identify existing environmental standards, to assess the application of those standards, and develop an integrated permitting process based upon environmental standards and best management practices, which may use prescriptive or performance standards, for transportation projects of statewide significance that can be applied with certainty, consistency, and assurance of swift permit action, while taking into account the varying environmental conditions throughout the state.

(b) By June 30, 2003, the committee shall develop a detailed work plan of one-stop permitting activities for review by the legislature. The work plan must include both a schedule to use the one-stop permit process on all funded transportation projects of statewide significance and any additional resources needed to ensure that this occurs. This work plan must include a process that enables the department to propose permit terms and conditions for permitting agency review and approval.

(c) The committee shall provide a status report to the legislature by December 31, 2003, and shall also identify barriers and opportunities to achieve a concurrent public review process, concurrent public hearings, and a unified appeals process for one-stop permitting.

(2) The committee shall give notice to the legislative authority of each affected county and city of the projects that are designated as transportation projects of statewide significance.

(6) "Low-impact development project" means an activity or series of actions that conform to a comprehensive land use planning and engineering design approach with a goal of maintaining or restoring existing natural habitat functions and hydrologic regime of urban and developing watersheds. These projects incorporate strategic watershed planning with site-specific management techniques to reduce development impacts to better replicate natural watershed hydrology and water quality, while allowing for development or infrastructure rehabilitation to occur.

(7) "One-stop permit decision making" means a coordinated permit decision-making process that streamlines environmental review and permit decision making for transportation projects by providing concurrent, consolidated review by each agency required to review the project.

(8) "Programmatic approach" means a permit or other action that covers a geographic or statewide area and applies to a variety of projects, activities, or locales. A programmatic approach may allow actions to proceed without individual approval by each permit decision-making agency.

(9) "Transportation project of statewide significance" means a surface transportation project or combination of surface transportation projects, that crosses multiple city or county jurisdictional boundaries or connects major state destinations in support of the state's economy and is so designated by the department of transportation and approved by the transportation committees of the senate and house of representatives. The transportation committees of the senate and house of representatives may also jointly designate these projects. The pilot projects established in this chapter are examples of transportation projects of statewide significance, but transportation projects of statewide significance are not limited to the pilot projects.

(10) "Watershed" means a water resource inventory area. [2001 1st sp.s. c 2 § 2.]

47.06C.030 Transportation permit efficiency and accountability committee. (*Expires March 31, 2006.*) The transportation permit efficiency and accountability committee is created.

(1) The committee consists of nine voting members, including two members from the house of representatives, one from each of the two largest caucuses; two senators, one from each of the two largest caucuses; one member designated by the secretary of transportation; one member designated by the director of fish and wildlife; one member designated by the director of ecology; one member designated by the Association of Washington Cities; and one member designated by the Washington State Association of Counties. The committee shall elect a chair from the four legislators appointed to the committee.

(2) The committee also includes eight nonvoting members, including one member designated by the Northwest Indian Fisheries Commission; one member designated by the Columbia River Intertribal Fisheries Commission; one member designated by the Consulting Engineers Council of Washington; one member designated by the Associated General Contractors of Washington; one member designated by the Association of Washington Business; one member designated by the Washington State Building and Construction Trades Council; one member designated by statewide envi-

ronmental organizations; and one member designated by the State Fish and Wildlife Commission, to represent the interests of citizens engaged in fish and wildlife recovery.

(3) A representative from the department of natural resources and representatives from federal regulatory and transportation agencies, including the Environmental Protection Agency, National Marine Fisheries Service, United States Army Corps of Engineers, Federal Highways Administration, and United States Fish and Wildlife Service must be invited to participate in committee deliberations as nonvoting members.

(4) The committee may create technical subcommittees as needed. Technical subcommittees created for a specific pilot project or pilot projects must include, but are not limited to, representatives of local governments from jurisdictions affected by those projects. Recommendations made by a technical subcommittee must be approved by a majority of the voting members of the committee.

(5) Nonvoting members will not be compensated but will receive reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(6) The department of transportation office of environmental affairs shall provide administrative and clerical assistance to the committee.

(7) No vote of the committee may overrule existing statutes, regulations, or local ordinances. [2001 1st sp.s. c 2 § 3.]

47.06C.040 Committee responsibilities. (*Expires March 31, 2006.*) (1)(a) The committee and its authorized technical subcommittees shall develop a one-stop permit decision-making process that uses interdisciplinary review of transportation projects of statewide significance to streamline and expedite permit decision making. The committee shall collaborate with appropriate agencies and parties to identify existing environmental standards, to assess the application of those standards, and develop an integrated permitting process based upon environmental standards and best management practices, which may use prescriptive or performance standards, for transportation projects of statewide significance that can be applied with certainty, consistency, and assurance of swift permit action, while taking into account the varying environmental conditions throughout the state.

(b) By June 30, 2003, the committee shall develop a detailed work plan of one-stop permitting activities for review by the legislature. The work plan must include both a schedule to use the one-stop permit process on all funded transportation projects of statewide significance and any additional resources needed to ensure that this occurs. This work plan must include a process that enables the department to propose permit terms and conditions for permitting agency review and approval.

(c) The committee shall provide a status report to the legislature by December 31, 2003, and shall also identify barriers and opportunities to achieve a concurrent public review process, concurrent public hearings, and a unified appeals process for one-stop permitting.

(2) The committee shall give notice to the legislative authority of each affected county and city of the projects that are designated as transportation projects of statewide significance.

(3) The committee shall create a technical subcommittee with representation at a minimum from the department of fish and wildlife, the department of ecology, and the department of transportation.

(a) Within six months from the first meeting of the committee, the subcommittee shall create a process to develop a programmatic approach for transportation projects. The committee shall review the department's construction project list to determine which projects or activities may be included in the programmatic approach and develop agreements with a goal of covering seventy percent of those projects or activities with programmatic agreements. At a minimum, this process must require that decisions on minor variations to the requirements of a programmatic approach must be provided by the permit decision-making agencies within twenty-one days of submittal.

(b) By June 30, 2003, the committee shall prioritize programmatic agreement opportunities identified in (a) of this subsection, develop a detailed work plan to achieve the goals set forth, and submit the report and plan to the legislature. The work plan must be reviewed and updated on a quarterly basis and submitted to the legislature twice yearly. This work plan must include the following elements:

(i) A schedule of activities and resources needed to achieve completion of the nine highest priority multiagency programmatic agreements by June 30, 2004;

(ii) A prioritized list of the remaining departmental activities eligible for programmatic, multiagency consideration by September 30, 2003;

(iii) A schedule of activities and resources to achieve completion of the prioritized list of programmatic agreements by December 31, 2005.

(c) The committee shall work with local governments to identify opportunities to integrate local government requirements in the agreements or permits identified in (b) of this subsection.

(d) The technical subcommittee's recommendations must be approved by a majority of the voting members of the committee.

(4) The committee shall explore the development of a consolidated local permit process.

(5) The committee shall conduct one or more pilot projects to implement the collaborative review process set forth in RCW 36.70A.430 to review and coordinate state and local permits for a transportation project funded in the transportation budget and that crosses more than one city or county boundary.

(6) The committee shall appoint a task force of representatives from cities and counties, the department of transportation, and other agencies as appropriate to identify one or more city or county permits for activities for which uniform standards can be developed for application by local governments. It is the goal of the task force to develop uniform standards and best practices for these identified permits that may be used by local governments in issuing their permits. The task force shall identify strategies for local governments to adapt these standards and best practices to local conditions. The committee shall encourage local governments to use these standards and best practices in local ordinances. The task force shall submit a progress report to the committee and the legislature by December 31, 2003, and shall conclude its

work and report its final recommendations for review to the committee and the legislature no later than December 31, 2004.

(7) The committee shall develop and prioritize a list of permit streamlining opportunities, specifically identifying substantive and procedural duplications and recommendations for resolving those duplications. The committee shall evaluate current laws and regulations and develop recommendations on ways to minimize the lapsing of permits. The committee shall evaluate flexible approaches that maximize transportation and environmental interests and make recommendations regarding where those approaches should be implemented.

(8) The committee shall undertake the following activities to develop a watershed approach to environmental mitigation:

(a) Develop methodologies for analyzing environmental impacts and applying compensatory mitigation consistent with a watershed-based approach before final design, including least cost methodology and low-impact development methodology;

(b) Assess models to collate and access watershed data to support early agency involvement in transportation planning and reviews under the national Environmental Policy Act and the State Environmental Policy Act;

(c) Use existing best available information from watershed planning efforts, lead entities, regional fisheries enhancement groups, and other recognized entities as deemed appropriate by the committee, to determine potential mitigation requirements for projects within a watershed. Priority consideration should be given to the use of the state's alternative mitigation policy guidance to best link transportation mitigation needs with local watershed and lead entity project lists; and

(d) By June 30, 2003, develop a detailed work plan that covers watershed-based mitigation activities. This work plan must be submitted to the legislature and include the following elements:

(i) A schedule of activities and resources needed to complete a watershed-based mitigation policy by December 31, 2003, that covers elements of permitting deemed appropriate by the committee;

(ii) A schedule of activities and resources needed to develop watershed-based mitigation decision-making tools by June 30, 2004;

(iii) A schedule of activities and resources needed to complete a test of technical and policy methods of watershed-based mitigation decision making by December 31, 2004, for a funded project in an urbanized area of the state; and

(iv) A schedule to integrate watershed-based mitigation policies, technical tools, and procedures for projects by June 30, 2005.

(9)(a) The committee shall seek federal delegation to the state where appropriate to streamline permit processes for transportation projects of statewide significance including: Delegation of section 404 permit authority under the Clean Water Act; nonfederal lead agency status under the federal Endangered Species Act; section 106 cultural resource designation under the National Historic Preservation Act; and other appropriate authority that when delegated should result in permit streamlining.

(b) The department, the department of ecology, and the department of fish and wildlife shall jointly review relevant federal, state, and local environmental laws, regulations, policies, guidance, studies, and streamlining initiatives, and shall report to the committee and the legislature by September 30, 2003, on those instances where such might allow for delegation to the department or some other duly recognized entity as appropriate. The report must include recommendations on:

(i) How to delegate consistent with federal permit streamlining efforts contained in new federal transportation authorizations and under Presidential Executive Order number 13274, Environmental Stewardship and Transportation Infrastructure Project Reviews, September 18, 2002;

(ii) How to maximize possible use of programmatic approaches to simplify issuance of federally required permits and project approvals;

(iii) The scope, roles, and responsibilities associated with any such delegation, especially as relates to regulatory standard setting, permitting, and oversight; and

(iv) A work plan and schedule of activities and resources needed to implement the recommendations of the department, the department of ecology, and the department of fish and wildlife on this matter.

The committee shall take action on the report, and shall report to the legislature by December 31, 2003, and every six months thereafter on the status of such delegation efforts.

(10) The committee shall develop a dispute resolution process to resolve conflicts in interpretation of environmental standards and best management practices, mitigation requirements, permit requirements, assigned responsibilities, and other related issues by September 1, 2001. The dispute resolution process may not abrogate or supplant any appeal right of any party under existing statutes. The dispute resolution process must be designed to include federal agencies if they choose to participate.

(11) The committee shall develop preliminary models and strategies for agencies to test how best to maximize the environmental investment of transportation funds on a watershed basis. After agencies test the models and strategies developed by the committee, the committee shall evaluate the models and strategies and make recommendations to the legislature.

(12) The committee shall develop a consistent methodology for the timely and predictable submittal and evaluation of completed plans and specifications detailing project elements that impact environmental resources as well as proposed mitigation measures during the preliminary specifications and engineering phase of project development and submit information on the consistent methodology to the legislature.

(13) The committee shall provide a summary report to the legislature on December 31, 2003, and every six months thereafter that details the committee's status and performance and its progress in implementing its master work plan. [2003 c 8 § 2; 2001 1st sp.s. c 2 § 4.]

Effective date—2003 c 8: See note following RCW 47.06C.010.

47.06C.050 Pilot projects. (Expires March 31, 2006.)

(1) The committee shall select and conduct permit reform pilot projects in three locales: (a) Urban near built-out conditions; (b) urban centers serving as crucial rural connectors;

(2004 Ed.)

and (c) rural corridors critical to statewide economic productivity. The pilot projects must test the assignment of responsibilities such as selected permit drafting and selected compliance activities to the department.

(2) The committee shall commence efforts to apply streamlining lessons learned from the streamlined permit process for the pilot projects to as many other transportation projects of statewide significance as quickly as possible. In reporting to the legislature, the committee may recommend statutory or regulatory changes that would result in streamlining for future projects.

(3) The department and permitting agencies shall apply an interim interdisciplinary permit review process for the pilot projects as set forth in this section. This process must provide coordinated review and approval of permit applications; provide coordinated and consolidated public hearings where required by one or more regulatory agencies under state law; and coordinate timelines for permit decision making.

(4) The committee shall give notice to the legislative authority of each affected county and city of the projects the committee has designated as pilot projects. Each county and city notified must be offered the opportunity to participate in the pilot projects as provided for in this chapter. The department shall provide funding assistance for participation.

(5) The committee shall develop a dispute resolution process to resolve conflicts in interpretation of environmental standards and best management practices, mitigation requirements, permit requirements, assigned responsibilities, the streamlined process for pilot projects set forth in this section, and other related issues by September 1, 2001. The dispute resolution process may not abrogate or supplant any appeal right of any party under existing statutes. The dispute resolution process must be designed to include federal agencies if they choose to participate. The dispute resolution process must be applied to the pilot projects.

(6) The streamlined process for the pilot projects must be based on the following model:

(a) Step 1: The department and permitting agencies will agree on coordination for environmental review under the state and national environmental policy acts, including document preparation, public comment opportunities, and timelines.

(b) Step 2: For each project, the department will convene a meeting of all entities with permitting authority to review:

(i) The proposed conceptual design for the project and alternative routes, construction approaches, or mitigation approaches;

(ii) All known reviewing entities, permit application and approval requirements, and timelines; and

(iii) A coordinated timeline that allows all statutory requirements to be met.

(c) Step 3: The department will draft all necessary permits to proceed with the preferred alternative using relevant agreements with permitting agencies.

(d) Step 4: The department will provide public notice in conformity with all applicable statutes and regulations and allow the required time for public hearings and written comments.

(e) Step 5: The department may revise the draft permits after consideration of public comments and applying all relevant agreed upon standards.

(f) Step 6: All permits will be disseminated to permitting agencies for final review. All reviews will be completed within forty-five days, at which time the permitting agencies will act upon the permit and either approve the permit or return it without approval.

(g) Step 7: If the permit is returned to the department without approval, the permitting agencies will have one opportunity to identify errors or omissions and any remaining specific deficiencies or circumstances not previously addressed by agreements between the department and agencies that must be met or addressed to be compliant with applicable law. The department may revise the permit as warranted and resubmit the permit to the permitting agency, which will have fifteen days from receipt of the revised permit to take final action.

(h) Step 8: Disputes related to permit decisions will be addressed by the dispute resolution process established by the committee. [2001 1st sp.s. c 2 § 5.]

47.06C.060 Local government participation. (Expires March 31, 2006.) (1) This section establishes procedures for city, town, and county governments to participate in the processes identified in this chapter to provide for coordinated, multijurisdictional environmental review and permitting decisions for pilot projects and transportation projects of statewide significance.

(2) Each city, town, and county within whose boundaries is located or partially located one or more projects identified in subsection (1) of this section, shall elect whether or not to participate in coordinated processes for environmental review and permitting of those projects as required in this chapter. If the city, town, or county elects to participate, it may do so as either a participating entity or as an assigning entity.

(a) If a city, town, or county elects to be considered as a participating entity, the committee must then include a representative designated by the city, town, or county in the coordinated review of the project. The department shall compensate the jurisdiction for technical support required for participation in the process. The jurisdiction will also be eligible for reimbursement for permit fees set by local ordinances and other agreed upon costs associated with the issuance of project permits.

(b) For the purposes of expediting the permit process, a city, town, or county may elect to assign its permit responsibilities under chapter 39.34 RCW to the department simultaneously with its notification to the department as specified in this section. The city, town, or county electing to assign its responsibilities shall enter into an agreement with the department to define the local permit requirements that must be met. Permits issued under the negotiated agreement are presumed to at least meet local environmental permit requirements. A city, town, or county choosing to use this option is eligible for a permit fee set by local ordinances associated with the issuance of the project permits.

(3) If the city, town, or county elects not to participate in the coordinated processes for the pilot projects designated in this chapter or transportation projects of statewide signifi-

cance the department will issue the locally required permits, when allowable. The department shall comply with all provisions of city, town, and county ordinances, and the department permit approval is presumed to at least meet the local environmental review and permit requirements.

(4) Any city, town, or county shall notify the department within sixty days of receipt of the committee's notification of project designation, as to whether it elects to be considered as a participating entity or an assigning entity, or elects not to participate in the coordinated process provided in this chapter.

(5) The committee shall review and evaluate the process by which local governments review and approve pilot projects and transportation projects of statewide significance, and shall provide recommendations to the legislature to improve the coordination of the local process with state and federal reviews as part of the reports required by this chapter.

(6) A city, town, or county is not liable for decisions made by the department that result in a failure to comply with city, town, or county ordinances except as provided in the interlocal agreements, and the department shall defend and answer to any actions or complaints challenging the validity of permits issued under this section. [2001 1st sp.s. c 2 § 6.]

47.06C.070 Interim permit process. (Expires March 31, 2006.) Until integrated standards and best management practices have been adopted by the committee, the department may use the following process for transportation projects of statewide significance, including projects requested by a project sponsor.

(1) Step 1: Conceptual description. The department will identify project purposes, the approximate location or alternative locations, and the federal, state, and local agencies that might have authority to review and approve the project or portions of it at any such locations, and a preliminary inter-agency communication list identifying agencies that may be interested in the proposed project and, where known, contact persons in such agencies. If the department is going to proceed with step 2 or to abandon the project, it may complete step 1 by: (a) Providing a summary of the outcome to all agencies on the list; and (b) making the summary available to the public.

(2) Step 2: Early involvement of other agencies. (a) At any time after completing step 1, the department will provide notice to all agencies on the interagency communication list and the public. Within thirty days, or a longer time if specified by the department, each state, local, and federal agency will be encouraged to identify:

(i) A primary contact person to coordinate future communications with the department and other interested agencies regarding the project, or indicate that it has no interest in the project and need not remain on the project information list;

(ii) Its role with respect to the proposed project;

(iii) Additional alternative locations the department should consider and the roles it would expect to have with the project at those locations;

(iv) Other agencies it believes should be added to the list for the project; and

(v) Other information the agency requests the department to consider.

(b) After all state and local agencies on the list have responded, or at least ten days after expiration of the specified response time, the department may complete step 2 by:

(i) Proposing one or more conceptual designs for the project at a proposed location and any alternative locations then being considered; (ii) providing a summary of the results of step 2, including a statement that the department considers step 2 to be complete or complete except for specified issues remaining to be resolved with specified agencies, to all agencies on the interagency communication list; and (iii) making the summary available to the public.

(3) Step 3: Identify environmental reviews, permits, and other approvals, application procedures, and decision standards. (a) At any time after completing step 2, the department may initiate step 3 by notice to all agencies on the list and the public. This notice may include a threshold determination on whether an environmental impact statement (EIS) or supplemental EIS will be prepared or an environmental checklist and request for comments on what steps should be taken to comply with chapter 43.21C RCW, the State Environmental Policy Act (SEPA). Within thirty days, or a longer time if specified by the department, each state, local, and federal agency will be encouraged to identify:

(i) The procedures under which it expects environmental reviews of the project to occur;

(ii) All permits and other approvals it might require for the project at each alternative location and conceptual design;

(iii) What is needed for the department to file a complete application for each permit or other approval;

(iv) The laws, regulations, ordinances, and policies it would administer with respect to the project at each alternative location and conceptual design; and

(v) Other information the agency requests the department to consider in deciding whether, when, where, or how to proceed with the project.

(b) After all state and local agencies on the list have responded, or at least ten days after expiration of the specified response time, the department may complete step 3 by:

(i) Adopting a list of all environmental reviews, permits, and other approvals it believes are needed for the project under each alternative being considered;

(ii) Providing all agencies on the list a copy of that list and a summary of the other results of step 3, including a statement that the department considers step 3 to be complete or complete except for specified issues remaining to be resolved with specified agencies; and

(iii) Making the list and summary available to the public.

(c) The list and summary will be presumed to accurately identify all environmental reviews, permits, and other approvals needed for each alternative described, what is required for applications to be considered complete, and the standards under which applications will be reviewed and approved, unless an aggrieved agency or person files objections within thirty days after the list and summary are distributed.

(4) Step 4: Tentative selection of preferred alternative.

(a) At any time after completing step 3, the department may initiate step 4 by notice to all agencies on the list and the public. This notice may be accompanied by a scoping notice for an EIS or supplemental EIS or, if available, be accompanied by a draft EIS or supplemental EIS. It also may be accompa-

nied by the department's preliminary analysis of the advantages and disadvantages of each identified alternative, or other information that may be helpful to other interested agencies and the public in identifying advantages and disadvantages. Within fourteen days, or a longer time if specified by the department, each state, local, and federal agency will be encouraged to identify:

(i) For each identified alternative, the specific features it considers significant with respect to its role in environmental reviews, permits, or other approvals for the project; the reasons these features are significant, and any concerns it may have about the alternative because of potential adverse impacts of these features on resources or social policies within its jurisdiction;

(ii) For each feature for which it raises concerns, recommendations on how the potential adverse impacts could be avoided, minimized, and mitigated;

(iii) For each feature for which it raises concerns, an assessment of the relative ranking of each alternative with respect to whether and to what extent these concerns apply;

(iv) Recommendations the agency may have as to which alternatives should be retained or dropped from further consideration, and ways in which alternatives might be modified or combined to address its concerns, recognizing that final decisions can be made only through the applicable environmental review, permit, and other approval processes and the agency making them is not bound with respect to any future decisions it may make regarding the project;

(v) Other information the agency requests the department to consider in deciding whether, when, where, or how to proceed with the project.

(b) After all state and local agencies on the list have responded, or at least ten days after expiration of the specified response time, the department may complete step 4 by:

(i) Selecting a preferred alternative for purposes of all environmental reviews, permits, and other approvals needed for the project;

(ii) Providing all agencies on the list a description of the preferred alternative and summary of the other results of step 4, including a statement that the department considers step 4 to be complete or complete except for specified issues remaining to be resolved with specified agencies; and

(iii) Making the preferred alternative and summary available to the public. The preferred alternative will be identified in all environmental reviews, permits, and other approvals needed for the project.

(5) Step 5: Completing environmental reviews and applications for permits and other approvals. (a) At any time after completing step 4, the department may initiate step 5 by notice to all agencies on the list and the public. A draft EIS or supplemental EIS, the department's draft plans and specifications for the project, and draft applications for some or all permits and other approvals may be provided with the notice or when they subsequently become available. Within thirty days, or a longer time if specified by the department, each state, local, and federal agency will be encouraged to identify:

(i) All concerns it previously raised regarding the alternative, and other alternatives still under consideration, that have not been resolved to its satisfaction;

(ii) Additional concerns it may have, particularly concerns resulting from additional information about the project location and design, and other new information received since the completion of step 4;

(iii) Additional environmental reviews, permits, or other approvals needed for the preferred alternative because of changes in laws, regulations, or policies or changes in the project location or design since these issues were last reviewed in step 3 or 4;

(iv) Changes in applicable requirements for complete applications for permits or other approvals under its jurisdiction since these issues were last reviewed in step 3 or 4;

(v) Other changes in applicable laws, regulations, ordinances, or policies administered by the agency since these issues were last reviewed in step 3 or 4;

(vi) Whether a draft application proposed by the department for a permit or other approval from the agency is complete, and if not, what additional information or other changes are needed for it to be complete.

(b) When all state and local agencies on the list have responded, or at least ten days after expiration of the specified response time, the department may complete step 5 by:

(i) Completing some or all environmental review processes and draft application forms for permits and other approvals that it reasonably believes to be complete;

(ii) Providing all agencies on the interagency communication list with environmental review and application documents and a summary of the other results of step 5, including a statement that the department considers step 5 to be complete or complete except for specified issues remaining to be resolved with specified agencies; and

(iii) Making the completed environmental review documents and summary available to the public. The preferred alternative will be identified in all environmental reviews, permits, and other approvals needed for the project.

(c) However, if an interested agency or aggrieved person files objections within fourteen days after the preferred alternative and summary are distributed, the objections will be addressed in subsequent environmental reviews and agency decisions regarding the project.

(6) Step 6: Completing the environmental review, permit, and other approval processes. (a) At any time after completing step 5, the department may initiate step 6 by notice to all agencies on the list and the public and filing applications for some or all permits and other approvals needed for the project. Within thirty days, or a longer time if specified by the department, each state, local, and federal agency will be encouraged to:

(i) Acknowledge receipt of draft environmental review documents provided to them and provide comments on them;

(ii) Acknowledge receipt of final environmental review documents and determine that they are adequate for purposes of their roles regarding the project or specify what additional information or changes are needed for them to be considered adequate;

(iii) Acknowledge receipt of each application filed with them and determine that the application is complete or specify what additional information or changes are needed for it to be considered complete;

(iv) Acknowledge that the applications submitted to them will be processed under the laws, regulations, ordi-

nances, and policies previously identified under steps 3, 4, and 5 or specify what changes have occurred in the governing standards that were in effect on the date a complete application was filed and thus apply to the project;

(v) Identify the significant steps necessary for the agency to reach a final decision on applications and the estimated time needed for each step;

(vi) Identify ways its decision-making process might be made more efficient and effective through additional coordination with other agencies, with any recommendations for such methods as joint solicitation and review of public comments and jointly conducting public hearings.

(b) It is recognized that step 6 may require an iterative process with several drafts of various environmental review documents and applications being considered and revised, and that changes in project location or design resulting from the permit decisions of one agency may require revising applications or even reopening permit decisions of other agencies. All state and local agencies are expected, and federal agencies are encouraged, to communicate and cooperate to minimize the number of iterations required and make the process as efficient and effective as possible. Unless significant new information is obtained, decisions made under step 6 should not be reopened except at the request of the department, and the most recent information available under steps 3, 4, and 5 should be presumed accurate until significant new information becomes available.

(c) If all environmental reviews have not been completed and all permits and other approvals obtained within forty-five days after step 6 is initiated, the department, by notice to all agencies on the list and the public, may set a deadline for completing reviews and decisions. At any time after the deadline, the department may terminate the coordination process of this section as to some or all of the reviews and decisions that are still not completed. [2001 1st sp.s. c 2 § 7.]

47.06C.080 Department organization and administrative actions. (Expires March 31, 2006.) The legislature finds that an essential component of streamlined permit decision making is the ability of the department to demonstrate the capacity to meet environmental responsibilities. Therefore, the legislature directs that:

(1) The department may amend its operating practices applicable to obtaining project permits when:

(a) Agreements on standards or best management practices as appropriate, are reached under RCW 47.06C.040;

(b) The committee determines that streamlining procedures and methodologies implemented for pilot projects consistent with RCW 47.06C.050 warrant broader application;

(c) The committee determines that the assignment of responsibilities between regulating agencies and the department is appropriate for broader use.

(2) The department may develop permits for review by permitting agencies when agreement on the standards and best management practices covered by such permits have been reached under RCW 47.06C.040. Regulating agencies shall review permits based upon the agreed upon standards and timelines developed in RCW 47.06C.040, as well as any other applicable existing standards.

(3) Qualified environmental staff within the department shall lead the development of all environmental documenta-

tion associated with department projects and permit activities in accordance with the department's project delivery tools.

(4) The department shall conduct special prebid meetings for projects that are environmentally complex. In addition, the department shall review environmental considerations related to these projects during the preconstruction meeting held with the contractor who is awarded the bid.

(5) Environmental staff at the department shall conduct field inspections to ensure that project activities are performed under permit conditions. These inspectors:

(a) May issue stop work orders when compliance with permit standards are not being met; and

(b) For this portion of their job duties, are accountable to the director of environmental affairs of the department.

(6) Failure to comply with a stop work order may result in civil penalties being assessed against the department and individuals involved. Willful violation of a stop work notice issued by the department is subject to civil penalties assessed on the agency as well as the individuals involved. Persistent violations by the department may result in loss of permit drafting and program management responsibilities. [2001 1st sp.s. c 2 § 8.]

47.06C.090 Training and compliance. (*Expires March 31, 2006.*) The legislature expects the department to continue its efforts to improve training and compliance. The department shall:

(1) Provide training in environmental procedures and permit requirements for those responsible for project delivery activities;

(2) Require wetland mitigation sites to be designed by a qualified interdisciplinary team that meets training requirements developed by the department's environmental affairs office in consultation with the department of ecology. Environmental mitigation site improvements must have oversight by environmental staff;

(3) Develop an environmental compliance data system to track all permit conditions;

(4) Report all noncompliance activities to applicable agencies of jurisdiction along with a remedy plan;

(5) Fund the departments of ecology, natural resources, and fish and wildlife, operating under their permit-granting authority to conduct audits of the department's permit drafting and compliance activities. The department of ecology must collate the audits in an annual report to the legislature;

(6) Seek federal funding for dedicated technical staff at federal permit decision-making agencies and for state costs associated with implementation of this chapter;

(7) Fund dedicated technical staff at federal permit decision-making entities, as appropriate, and the state departments of ecology, natural resources, community, trade, and economic development, and fish and wildlife to implement the requirements of this chapter;

(8) Fund a technical specialist at the Northwest Indian Fisheries Commission and the Columbia River Intertribal Fisheries Commission for the purpose of implementing this chapter;

(9) Reimburse local jurisdictions for costs associated with local participation on the committee and technical subcommittees. [2001 1st sp.s. c 2 § 9.]

(2004 Ed.)

47.06C.100 Cost reimbursement. (*Expires March 31, 2006.*) The committee shall negotiate a method of cost reimbursement for the costs associated with carrying out the purposes of this chapter, including prior departmental agreements with permitting agencies to cover their costs for transportation projects of statewide significance. [2001 1st sp.s. c 2 § 10.]

47.06C.900 Captions not law—2001 1st sp.s. c 2. (*Expires March 31, 2006.*) Captions used in this chapter are not any part of the law. [2001 1st sp.s. c 2 § 11.]

47.06C.901 Expiration date—2001 1st sp.s. c 2. This act expires March 31, 2006. [2003 c 8 § 3; 2001 1st sp.s. c 2 § 13.]

Effective date—2003 c 8: See note following RCW 47.06C.010.

47.06C.902 Effective date—2001 1st sp.s. c 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 29, 2001]. [2001 1st sp.s. c 2 § 14.]

47.06C.903 Severability—2001 1st sp.s. c 2. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [2001 1st sp.s. c 2 § 15.]

Chapter 47.08 RCW HIGHWAY FUNDS

Sections

47.08.010	Control of allocated funds.
47.08.020	State to match federal funds.
47.08.040	Contracts with United States as to state highway property.
47.08.050	Contracts with United States—Governor to execute instrument to the United States.
47.08.060	Contracts with United States—Disposal of funds from the United States.
47.08.070	Cooperation in public works projects, urban public transportation systems.
47.08.080	Funds when department is in charge of county road improvements.
47.08.090	Funds when department is in charge of city street improvements.
47.08.100	Illegal use of county or city road funds—Procedure to correct.
47.08.110	Misuse of county or city road funds—General penalty.
47.08.120	Transportation equipment fund.
47.08.121	Transportation equipment fund declared revolving fund of proprietary nature—Use.
47.08.130	Custody of federal funds—Disbursement.

Highway funds, constitutional limitations: State Constitution Art. 2 § 40 (Amendment 18).

47.08.010 Control of allocated funds. Whenever there is provided an allocation for the construction or improvement of state highways, the allocation shall be under the sole charge and direct control of the department. [1984 c 7 § 92; 1961 c 13 § 47.08.010. Prior: 1937 c 53 § 32, part; RRS § 6400-32, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.08.020 State to match federal funds. For the construction, alteration, repair and improvement of state high-

RESOLUTION NO. 584

WHEREAS, RCW 47.05.021(5), as amended by Section 5, Chapter 171, Laws of 1998, directs the Washington State Transportation Commission to designate state highways of statewide significance and submit a list of such facilities for adoption by the 1999 Legislature.

AND WHEREAS, the Transportation Commission and the Washington State Department of Transportation, in consultation with Regional Transportation Planning Organizations, have developed criteria for highways of statewide significance.

AND WHEREAS, the above criteria were used by the Washington State Department of Transportation in consultation with Regional Transportation Planning Organizations to identify a list of state highways of statewide significance that was reviewed by the Washington State Transportation Commission.

NOW, THEREFORE, BE IT RESOLVED, that the Washington State Transportation Commission, does hereby designate those highways identified on the attached map and list as state highways of statewide significance for submittal to the Legislature, pursuant to RCW 47.05.021(5).

BE IT FURTHER RESOLVED, that the Transportation Commission recommends to the Legislature, upon adoption of the list of highways of statewide significance, that they enact an administrative update process for highways of statewide significance to be carried out in the future by the Transportation Commission.

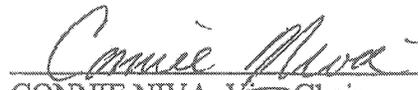
ADOPTED this 17th day of December, 1998.

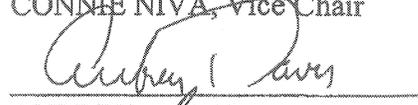
WASHINGTON STATE TRANSPORTATION COMMISSION


TOM GREEN, Chair


ED BARNES, Member

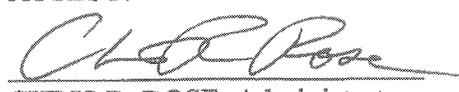

GEORGE KARAGIANNIS, Member


CONNIE NIVA, Vice Chair


AUBREY DAVIS, Member


CHRIS MARR, Member

ATTEST:


CHRIS R. ROSE, Administrator

APPROVED AS TO FORM:


Assistant Attorney General

Transportation Commission Proposed List of Highways of Statewide Significance
By Resolution #584, dated December 17,1998

SR	Begin MP	End MP	Length	Description
2	0.00	334.92	326.60	I-5/Everett to Idaho (entire route)
3	0.00	60.02	60.00	SR101/Shelton to SR104 (entire route)
4	0.00	55.23	55.22	SR 101 to SR 432 (Longview Vicinity)
5	0.00	276.58	276.62	Oregon to Canada (entire route)
8	0.00	20.67	20.67	SR12/Elma to SR101/Olympia (entire route)
9	93.61	98.17	4.56	SR546 to Canada
12	0.00	434.19	430.76	SR101/Aberdeen to Idaho (entire route)
14	0.00	101.02	100.93	I-5/Vancouver to SR 97
16	0.00	29.19	27.01	I-5/Tacoma to SR3/Gorst (entire route)
17	7.43	50.77	43.28	SR395/Mesa to I-90
17	50.77	56.56	5.87	I-90/Moses Lake to Moses Lake Airport
18	2.72 B	27.91	27.89	I-5 to I-90 (entire route)
20	0.00	436.93	436.55	SR101 to SR2/Newport (entire route)
20 Spur Anacortes	47.89	55.67	7.78	SR20 to Ferry Terminal (entire route)
22	0.70	4.00	3.31	SR97 to I-82
26	0.00	133.53	133.53	I-90/Vantage to SR195 (entire route)
28	0.00	29.77	33.91	SR2/Wenatchee to SR281/Quincy
82	0.00	132.60	132.57	I-90/Ellensburg to Oregon (entire route)
90	1.94	299.82	297.49	I-5/Seattle to Idaho (entire route)
97	0.00 B	336.48	321.63	Oregon to Canada (entire route)
99	26.04	43.60	17.44	SR509 to SR104
101	0.00	0.46	0.46	Astoria Megler Bridge
101	28.89	367.41	336.89	SR4 to I-5/Olympia
104	0.20	29.81	29.28	SR101 to I-5
125	0.00	6.15	6.14	Oregon State Line to SR12/Walla Walla
127	0.03	27.05	27.05	SR12/Dodge to SR26 (entire route)
167	0.00	26.40	27.72	I-5/Tacoma to SR405/Renton
182	0.00	15.19	15.19	I-82 to SR395/Pasco (entire route)
195	0.00 B	95.99	93.37	Idaho to I-90/Spokane(entire route)
205	26.59	37.16	10.57	Oregon to I-5 (entire route)
240	30.63	34.87	4.24	Stevens Drive to I-182
240	36.05	43.17	7.12	I-182 to SR395
270	0.00	9.89	9.89	SR195/Pullman to Idaho (entire route)

SR	Begin MP	End MP	Length	Description
281	0.00	10.55	10.55	SR28/Quincy to I-90 (entire route)
304	0.00	3.51	3.24	SR3 to Bremerton Ferry Terminal (entire route)
305	0.02	13.31	13.29	Winslow Ferry Terminal to SR3 (entire route)
307	0.00	5.25	5.25	SR305 to SR104 (entire route)
310	0.00	1.84	1.84	SR3 to SR304/Bremerton (entire route)
395	13.05	270.26	255.22	I-82 to Canada
401	0.00	12.13	12.13	SR101/Astoria Megler Br. to SR4
405	0.00	30.32	30.33	I-5/Tukwilla to I-5 (entire route)
432	0.00	10.33	10.32	SR4/Longview to I-5 (entire route)
433	0.00	0.94	0.94	Oregon to SR432/Longview (entire route)
501	0.00	2.24	1.83	I-5 to Port of Vancouver Entrance
509	0.22	3.20	2.98	I-705/Tacoma to Marine View Dr.
509	25.60	29.83	4.68	SR518/SeaTac to SR99
512	0.00	12.06	12.06	I-5/Lakewood to SR167/Puyallup (entire route)
518	0.00	3.81	3.42	SR509/SeaTac to I-5/Tukwilla (entire route)
519	0.00	1.31	1.31	I-90 to Seattle Ferry Terminal (entire route)
520	0.00	7.09	7.08	I-5 to I-405
522	0.00	24.68	24.68	I-5/Seattle to SR2/Monroe (entire route)
525	0.00	30.49	30.72	I-5 to SR20 (entire route)
526	0.00	4.52	4.52	SR525/Mukilteo to I-5 (entire route)
529	0.00	2.20	2.20	I-5/Everett to Port
539	0.00	15.16	15.16	I-5/Bellingham to Canada (entire route)
543	0.00	1.09	1.09	I-5 to Canada (entire route)
546	0.00	8.02	8.02	SR539 to SR9 (entire route)
705	0.00	1.50	1.50	I-5/Tacoma to Schuster Parkway (entire route)
970	0.00	10.31	10.31	I-90/Cle Elum to SR97 (entire route)

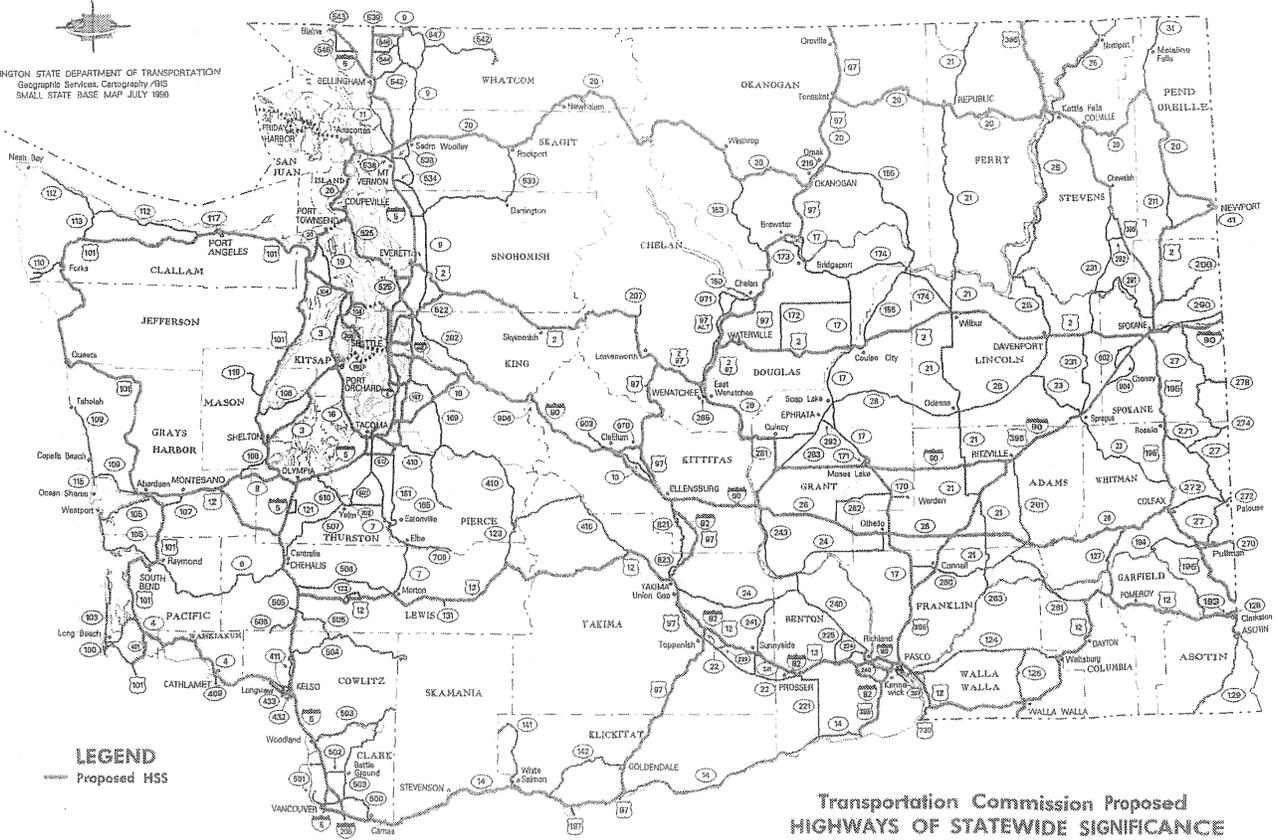
HSS Ferry Routes

304	Seattle/Bremerton Ferry
305	Seattle/Bainbridge Island Ferry
104	Edmonds/Kingston Ferry
525	Mukilteo/Clinton Ferry
20	Pt. Townsend/Keystone Ferry
	Anacortes/Sidney B.C. Ferry

Total HSS Highway Miles = 3806

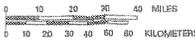
Total State Highway System = 7065

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION
Geographic Services, Cartography/693
SMALL STATE BASE MAP JULY 1989

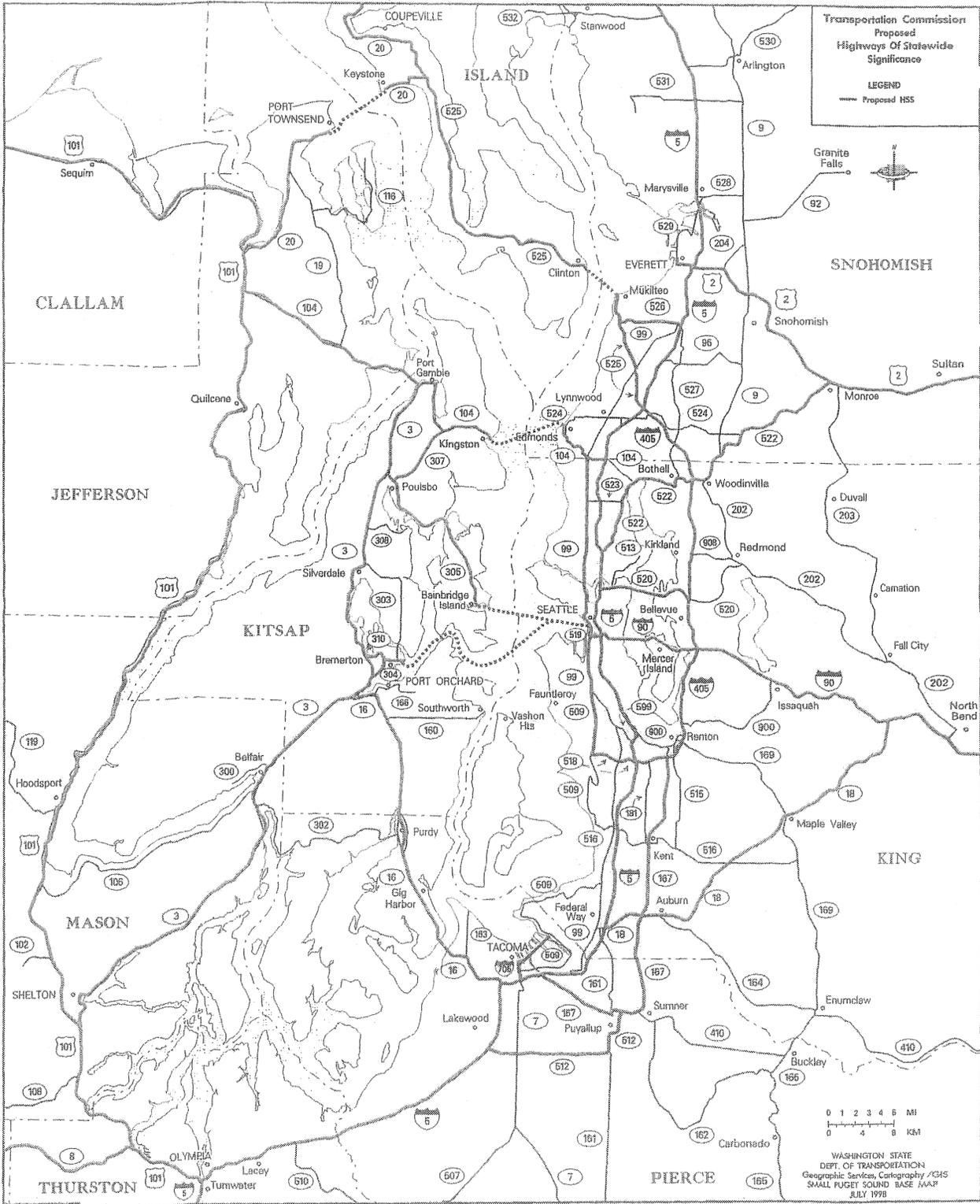


LEGEND
Proposed HSS

**Transportation Commission Proposed
HIGHWAYS OF STATEWIDE SIGNIFICANCE**
(by Resolution #584 dated December 17, 1998)



Small State Base Map, July 1989



CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that, on this day, I sent a copy of the City of Seattle's

Opening Brief to the following parties as indicated:

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the foregoing being the last known address of the above-named parties.

Dated this 24th day of April, 2015.

Trudy Jaynes
TRUDY JAYNES