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SENATE BILL 5966

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State of Washington

61st Legislature

2009 Regular Session

By Senator Fraser

Read first time 02/10/09. Referred to Committee on Environment, Water & Energy.

1 AN ACT Relating to the state environmental policy act; and creating  
2 new sections.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that the state  
5 environmental policy act is an important mechanism to ensure that, in  
6 all state and local governmental actions or approvals, the responsible  
7 agency considers the potential environmental consequences of the  
8 proposed action. Where an agency determines that the proposal may have  
9 a significant adverse impact upon the quality of the human environment,  
10 the agency is required to conduct an analysis of the potential impacts  
11 and consider alternatives that may reduce or eliminate those impacts.  
12 The state environmental policy act procedures in preparing such an  
13 environmental impact statement require a draft and affording an  
14 opportunity to the public to review and comment upon the agency's  
15 analysis. These procedures promote openness and accountability in  
16 government and involve the public in important ways in making  
17 governmental decisions that will affect the state and their  
18 communities. But there have been instances in which agencies have  
19 avoided such analysis by improperly defining a series of related

1 actions as separate proposals under the state environmental policy act.  
2 Such improper "segmenting" under the state environmental policy act is  
3 contrary to judicial decisions interpreting the state environmental  
4 policy act and undermines the objectives of thorough environmental  
5 analysis of the cumulative impacts from the overall project or  
6 proposal.

7 For these reasons it is appropriate that the state agency charged  
8 by law with maintaining guidelines for state and local compliance with  
9 the state environmental policy act review this issue and make  
10 recommendations for administrative and legislative actions to prevent  
11 improper segment or piecemealing of proposals to avoid full  
12 environmental analysis under the state environmental policy act.

13 NEW SECTION. **Sec. 2.** (1) By December 31, 2009, the department of  
14 ecology shall provide a report to the environmental policy committees  
15 of the senate and house of representatives that examines the state  
16 environmental policy act procedures, case law, and recent governmental  
17 actions subject to the state environmental policy act in which there  
18 have been charges that the responsible agency improperly segmented the  
19 action with the result that the state environmental policy act  
20 compliance was avoided.

21 (2) The report must address at least the following:

22 (a) The "phased review" procedures under WAC 197-11-060;

23 (b) Data on the number of projects completed through phased review;

24 (c) Examination of phased review proposals and assessments to  
25 determine if a single comprehensive review should have been completed;

26 (d) An examination of projects that were broken into a series of  
27 projects regardless of the cumulative effect;

28 (e) An examination of the independence of each project and any  
29 subsequent related project;

30 (f) The role of the lead agency;

31 (g) The potential conflict of interest of the lead agency  
32 conducting the environmental review where the agency is a proponent or  
33 sponsor of the project subject to the review; and

34 (h) Any recommendations regarding restructuring of the state  
35 environmental policy act phased review procedures or other

1 recommendations to prevent inappropriate segment of the state  
2 environmental policy act actions to avoid required environmental  
3 analysis of the cumulative impacts of related actions.

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