

HOUSE BILL REPORT

SSB 6543

As Reported By House Committee On:

Government Operations

Title: An act relating to making technical corrections to the omnibus 1995 legislation that integrates growth management planning and environmental review, and conforming the terminology and provisions of subdivision, zoning, and other laws to the provisions of such legislation.

Brief Description: Making adjustments to provisions integrating growth management planning and environmental review.

Sponsors: Senate Committee on Ecology & Parks (originally sponsored by Senators Fraser, Haugen and Swecker).

Brief History:

Committee Activity:

Government Operations: 2/20/96, 2/23/96 [DPA].

HOUSE COMMITTEE ON GOVERNMENT OPERATIONS

Majority Report: Do pass as amended. Signed by 9 members: Representatives Reams, Chairman; Cairnes, Vice Chairman; Goldsmith, Vice Chairman; Hargrove; Honeyford; Hymes; Mulliken; D. Schmidt and Van Luven.

Minority Report: Do not pass. Signed by 6 members: Representatives Rust, Ranking Minority Member; Scott, Assistant Ranking Minority Member; Conway; R. Fisher; Scheuerman and Wolfe.

Staff: Steve Lundin (786-7127).

Background: Several planning enabling statutes permit counties and cities to adopt comprehensive plans and zoning ordinances. Other statutes establish planning requirements for local governments.

State voters adopted the Shorelines Management Act (SMA) in 1971 by approving Initiative 43-B, which requires counties and cities to adopt local shoreline master programs regulating land use activities within shoreland areas and to submit the programs to the Department of Ecology for review and approval or rejection. The Legislature enacted the State Environmental Policy Act (SEPA) in 1971, which

requires state agencies and local governments to prepare detailed statements, or environmental impact statements, for any of their proposed actions that may have a probable significant adverse impact on the environment. The Legislature enacted the Growth Management Act (GMA) in 1990 and 1991 establishing a number of planning requirements for all counties and cities, and a larger number of planning requirements for counties and cities planning under all the requirements of the GMA.

ESHB 1724 was enacted in 1995, based on the recommendations of the Governor's Regulatory Reform Task Force. Among other provisions, ESHB 1724 (1) required counties and cities planning under all GMA requirements to include their local shoreline master programs as part of their comprehensive plans and development regulations adopted under the GMA; (2) encouraged the development of expanded environmental impact statements when comprehensive plans are prepared for comprehensive plans under the GMA; (3) established a new consolidated permitting procedure for counties and cities planning under all GMA requirements where, with certain exceptions, permits for a project must be issued within 120 days of a complete application being submitted; (4) established a new land use petition procedure by which land use regulations may be challenged in superior court that is used in lieu of the writ of certiorari; (5) authorized development agreements between developers and counties or cities; and (6) created the land use commission to review planning and permitting laws and make recommendations to the Legislature.

Summary of Amended Bill: A variety of relatively minor or technical changes are made to provisions of ESHB 1724, enacted last session. These changes were developed, but not formally proposed, by the Land Use Commission created by ESHB 1724.

Other changes were made to various land use statutes.

County Planning Enabling Laws. References to the new 120-day consolidated permitting procedure and the new land use petition procedure established under ESHB 1724 are inserted into various statutes in county planning enabling laws.

Local Permit Review. The definition of closed record appeals under the new 120-day consolidated permitting procedure established under ESHB 1724 is modified to distinguish between pre-decision and post-decision appeals. Only post-decision appeals may be excluded from the 120-day time limit for local government decisions.

A county or city may provide for a separate appeal of a SEPA procedural or substantive determination.

Time extensions to the 120-day consolidated permitting procedure are altered as follows (1) the existing time extension for SEPA considerations applies only if a determination of significance under SEPA has been made; and (2) a new time

extension is established for any period during which the applicant fails to post the property, if required by the local government.

It is clarified that a lead agency may complete its SEPA analysis prior to end of the 120-day consolidated permitting procedure.

Development Agreements. It is clarified that the development agreement provisions included within ESHB 1724 are in addition to other authorities of local governments to enter into agreements with property owners. The amendment or termination of a development agreement is controlled by the terms of the agreement. The parties of a development agreement may voluntarily agree to financial contributions or mitigation measures that the county or city could not otherwise require.

Land Use Appeals. A person who otherwise would have to be served with a notice of an appeal under the new land use appeals procedure may file a statement indicating he or she does not want to be a party, and notice would not have to be served on the person.

Hearings on land use petitions must commence within 60 days of the date set for submitting the local jurisdiction's record.

The appeal proceeding on a SEPA procedural determination may occur before the agency's final decision on a proposed action if the appeal is of a public project or a non-project action.

Subdivision and Platting. Provisions of the subdivision and platting statutes are amended to be consistent with terminology, procedures, and time frames used or established in ESHB 1724. The number of lots resulting from a division of land that is defined as a short subdivision and subject to lesser review requirements is increased from four to nine within an urban growth area.

Shoreline Management Act. Notice requirements for substantial development permits under the Shoreline Management Act are clarified to recognize changes made by ESHB 1724.

Environmental Permit Assistance. It is clarified that the environmental permit assistance center established by ESHB 1724 is established in the Department of Ecology. The environmental permit assistance center may designate an agency, other than the lead agency that was designated under SEPA, to act as the coordinating permit agency under the environmental permit assistance center procedures if the lead agency makes such a request.

SEPA Categorical Exemptions. The Department of Ecology shall adopt rules increasing SEPA categorical exemptions for minor new construction and minor new land use decisions within urban growth areas and to allow counties and cities to further expand these exemptions within urban growth areas. In addition, by statute a few categorical exemptions were increased within urban growth areas relating to minor new construction and minor new land use decisions. Among other express increases, the division of land into 10 or fewer parcels and the construction of residential structures of 10 or fewer units in an urban growth area are categorically exempt.

State Agency Development Permits. On or after April 1, 1997, a state agency that issues project permits is required to complete its review within 120 days under the same requirements and exemptions than counties and cities planning under all GMA requirements must review project permits within 120 days. This requirement terminates on June 30, 1999.

Effective Dates. An emergency clause is included for most of the legislation. Two sections expire on June 30, 1998, in recognition that some of the underlying provisions of ESHB 1724 also expire on June 30, 1998.

Amended Bill Compared to Substitute Bill: The number of lots in a short subdivision in an urban growth area was increased. Provisions relating to SEPA categorical exemptions were added. The 120-day requirement for state agencies to complete review of project permits was added. A number of technical changes were made.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: The bill contains several effective dates. Please refer to the bill.

Testimony For: The underlying bill includes a variety of technical changes developed by the Land Use Commission. The underlying bill complements HB 1724 from last year.

Testimony Against: None.

Testified: Senator Fraser, prime sponsor; Sally Clarke, Association of Washington Business; and Harry Reinert, Land Use Study Commission.