

# HOUSE BILL REPORT

## ESHB 2847

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### As Amended by the Senate

**Title:** An act relating to creating an exemption to the definition of substantial development in chapter 90.58 RCW relating to the retrofitting of existing structures to accommodate physical access by individuals with disabilities.

**Brief Description:** Creating an exemption to the definition of substantial development in chapter 90.58 RCW relating to the retrofitting of existing structures to accommodate physical access by individuals with disabilities.

**Sponsors:** House Committee on Environment (originally sponsored by Representative Rossetti).

#### Brief History:

##### Committee Activity:

Environment: 2/1/16, 2/4/16 [DPS].

##### Floor Activity:

Passed House: 2/16/16, 75-23.

Senate Amended.

Passed Senate: 3/2/16, 33-14.

#### Brief Summary of Engrossed Substitute Bill

- Removes from the definition of "substantial development" in the Shorelines Management Act retrofitting projects with the exclusive purpose of providing physical access to a building by individuals with disabilities.

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#### HOUSE COMMITTEE ON ENVIRONMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Fitzgibbon, Chair; Peterson, Vice Chair; Shea, Ranking Minority Member; Short, Assistant Ranking Minority Member; Dye, Farrell, Fey, Goodman, McBride and Pike.

**Minority Report:** Do not pass. Signed by 1 member: Representative Taylor.

**Staff:** Jason Callahan (786-7117).

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Background:**

The Shoreline Management Act (SMA) was enacted in 1971, and it governs uses of the shorelines of the state. Shorelines of the state are all water areas of the state, with some exceptions, and the land underlying them, including reservoirs, and their associated shorelands. Lands that extend landward 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark, wetlands, and river deltas are "shorelands."

The SMA provides for a cooperative regulatory approach between local governments (counties, cities, or towns that contain within their boundaries any lands or waters subject to the SMA) and the state. At the local level, the SMA regulations are developed in local shoreline master programs (master programs). All counties and cities with shorelines of the state are required to adopt and enforce master programs that regulate land use activities within their jurisdictions. Master programs must be consistent with guidelines adopted by the Department of Ecology (ECY). Master programs, and any segments of or amendments to the programs, become effective when approved by the ECY.

Prior to undertaking any substantial development on the shorelines of the state, the SMA requires that a property owner or developer first obtain a permit. A "substantial development" is any development with a total cost or fair market value exceeding a set amount, or any development which materially interferes with the normal public use of the water or shorelines of the state. The original set threshold amount for a project to be considered substantial development was \$5,000; however, on September 15, 2012, it was increased to \$6,416 based on an automatic inflation mechanism.

Certain developments are specifically not considered "substantial developments" by statute and are exempt from the requirement of obtaining a special development permit regardless of their cost. These projects include normal maintenance of existing structures, emergency construction, construction necessary to support agriculture, modification of navigational aids, construction of certain single family residences, and the construction of canals necessary for certain irrigation systems.

**Summary of Engrossed Substitute Bill:**

Retrofitting projects on either the outside or the inside of an existing building are removed from the definition of "substantial development" in the SMA if they are undertaken with the exclusive purpose of complying with the Americans with Disabilities Act or to otherwise provide physical access to a building by individuals with disabilities.

**EFFECT OF SENATE AMENDMENT(S):**

The Senate amendment changes the scope of the underlying bill from an exemption for retrofitting projects affecting "buildings" to retrofitting projects affecting "structures."

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) A church, which was originally constructed as a one-room school house in 1911, decided to build a wheelchair ramp to cater to the members of their congregation who are aging or who have developmental disabilities. The permitting costs under the SMA drastically increased the costs of the project, but the permits had no commensurate environmental benefit. This bill corrects the situation where permits are unnecessarily required under the SMA. Changing the scope of the bill from structures to buildings avoids any unintended consequences.

(Opposed) None.

**Persons Testifying:** Representative Rossetti, prime sponsor; and Tom Clingman, Department of Ecology.

**Persons Signed In To Testify But Not Testifying:** None.