

HOUSE BILL REPORT

ESHB 2462

As Passed House
February 10, 1994

Title: An act relating to flood damage reduction.

Brief Description: Providing for flood hazard management.

Sponsors: By House Committee on Environmental Affairs
(originally sponsored by Representatives R. Johnson, Pruitt
and Rust).

Brief History:

Reported by House Committee on:
Environmental Affairs, February 2, 1994, DPS;
Passed House, February 10, 1994, 86-9.

HOUSE COMMITTEE ON ENVIRONMENTAL AFFAIRS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Rust, Chair; Flemming, Vice Chair; Horn, Ranking Minority Member; Van Luven, Assistant Ranking Minority Member; Bray; Edmondson; Foreman; Holm; L. Johnson; J. Kohl; Linville; Roland and Sheahan.

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

Staff: Rick Anderson (786-7114).

Background: The three flood events of 1990 caused flood damages to public and private structures in excess of \$160 million. Nearly every county in the state has had one or more federally declared disasters in the past 20 years. Eighteen counties have had three or more federally declared flood disasters since January 1, 1974: Benton, Clallam, Cowlitz, Grays Harbor, Jefferson, Kitsap, King, Lewis, Mason, Pacific, Pierce, Snohomish, Skagit, Thurston, Wahkiakum, Whatcom, Whitman and Yakima.

Flood plain management

The Federal Emergency Management Agency (FEMA) provides low cost flood insurance for communities that meet minimum federal requirements. These requirements specify that buildings in the flood plain must be at or above the level of a 100-year flood. In addition, FEMA pays 75 percent of

disaster relief assistance in the event of a federally declared flood disaster if the state and/or local government pays a 25 percent match grant. The cost of the 25 percent match is typically split equally between the state and local government.

State law requires the Department of Ecology to adopt rules that equal the federal standards. The department reviews local ordinances to ensure consistency with state and federal standards and provides funds for flood planning and maintenance of existing flood control structures. The department also provides technical assistance with plans and mapping of 100-year flood plains.

Cities and counties within the 100-year flood plain adopt ordinances establishing building and land-use requirements. Cities and counties may also prepare comprehensive local flood control plans.

State flood funding

The state provides two direct sources of flood funding. The Flood Control Assistance Account Program (FCAAP) provides \$4.0 million dollars per biennium for local governments to prepare flood plans. Money from this account can also be used for maintenance of existing flood projects. The state also funds 12.5 percent of disaster relief assistance for federally declared flood disasters.

Flood hazard notification

State law does not require a seller of real property in a flood plain to notify a potential buyer that the property is in the flood plain.

Summary of Bill:

Part I: Flood plain management

By January 1, 1997, each county and city within the flood plain must adopt or revise a flood plain ordinance that meets or exceeds review standards in order to be eligible for state flood funding. The review standards must include these four elements:

- 1) outcomes: reduce loss of human life, reduce property damage, maintain healthy river systems and minimize long-term public costs;
- 2) a methodology to measure the outcomes;
- 3) a numeric or narrative standard for each outcome; and
- 4) a timetable for achieving each outcome standard.

In addition, flood prone counties are required to complete a comprehensive flood plan as a condition of being eligible for state flood funding. The flood plan is to achieve the same outcomes that are used for the Department of Ecology's

review standards. The department must prepare a six-year schedule to plan the timing and amount of financial assistance it provides to flood prone counties that prepare a comprehensive flood plan. Counties that have not prepared a flood plan by June 30, 1997 may retain eligibility for state flood funds if they have formally committed to preparing a plan.

The review standards are to be developed by a task force consisting of three representatives appointed by the cities and three representatives appointed by the counties and one representative from each of the following departments: Ecology; Community, Trade and Economic Development; and Fisheries and Wildlife. At least seven of the nine members of the task force must agree to the criteria before they can be adopted. If no agreement is reached by June 30, 1995, no city or county is eligible for state flood funding until an agreement on the review criteria is reached.

The requirements that prohibit the Department of Ecology from adopting flood plain management rules that equal federal minimum standards are deleted. Decisions by the Department of Ecology to grant or deny a local flood plain ordinance or a comprehensive flood plan are appealable to the Pollution Control Hearings Board. Flood plans prepared in the same watershed must be consistent with each other; disputes are to be resolved by the Growth Planning Hearings Board. Counties that have three or more federally declared flood disasters between January 1, 1974 and January 1, 1994 are defined as "flood-prone." References to "flood control" are changed to "flood hazard management" or "flood hazard reduction."

Part II: Funding

The activities eligible for funding under the state flood (FCAAP) account are broadened to include implementation of county flood plans including structural and non-structural projects.

During the time period before the state funding criteria take effect, the Department of Ecology is directed to use three criteria to determine eligibility for the FCAAP account. The criteria are: 1) local ordinances are more stringent than federal requirements; 2) a flood plan has been completed or is in the process of being completed; or 3) the local government has constructed or is constructing an overtopping levee that allows for public access.

Technical and procedural changes are made to the creation and operation of flood control zone districts. A county is allowed 30 days, instead of 10 days, to issue its ordinance

creating a flood control zone district. The district is authorized to establish a lien for delinquent charges or to establish an alternative foreclosure procedure.

Part III: Flood hazard notification

A developer subdividing 26 or more lots must identify property within the 100-year flood plain as a physical hazard on public offering statements. A person who sells property within the 100-year flood plain must disclose that fact to the buyer in writing. The Department of Ecology is required to file maps of the 100-year flood plain with the county auditor of each county.

The requirement that realtors disclose information about property for sale in the flood plain is null and void if specific disclosure for the 100-year flood plain and erosion hazard areas is provided in SB 6283.

Fiscal Note: Requested January 20, 1994.

Effective Date: Ninety days after adjournment of session in which bill is passed except for sections 105 and 106 which take effect June 30, 1997.

Testimony For: The bill promotes wise use of public funds by using state dollars on only those local governments that meet specified outcomes. The bill preserves local flexibility by prescribing outcomes rather than specific actions.

Testimony Against: This legislation prescribes rules that are more stringent than federal rules and will result in local ordinances similar to those in effect in King County.

Witnesses: Sky Miller, Snohomish County Department of Public Works (pro); Mile Grady, Department of Community Development (pro); Paul Parker, Washington State Association of Counties (undeclared); Jay Shepard, Department of Ecology (pro); Jeff Parsons, National Audubon Society (pro); Naki Stevens, People for Puget Sound (pro); Dawn Vyvyan, Skagit System Cooperative (pro); Jan Teague, Building Industry Association of Washington (concerns); Dave Williams, Association of Washington Cities (better); Ed Monary, Department of Fisheries (pro); Mark Triplett, Washington Aggregate & Concrete Association (concerns); Tim Boyd, Washington Forest Protection Association (undeclared); Jack Hulsey, Department of Natural Resources (pro); Linda Crerar, Department of Ecology (pro); Al Wald, Department of Ecology (pro); and Maxine Keesling, King County hobby farmer (con).