

SENATE BILL REPORT

ESHB 1441

AS OF APRIL 1, 1993

Brief Description: Providing for flood damage reduction.

SPONSORS: House Committee on Environmental Affairs (originally sponsored by Representatives R. Johnson, Rust, Quall, Linville, Dunshee, Basich, Finkbeiner, Karahalios, J. Kohl, R. Meyers, Roland, Romero and Johanson)

HOUSE COMMITTEE ON ENVIRONMENTAL AFFAIRS

HOUSE COMMITTEE ON APPROPRIATIONS

SENATE COMMITTEE ON NATURAL RESOURCES

Staff: Vic Moon (786-7469)

Hearing Dates: April 2, 1993

BACKGROUND:

Flood Damages: 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. Ten counties have had three or more federally declared flood disasters since January 1, 1979: Clallam, Jefferson, Grays Harbor, Wahkiakum, Lewis, Pierce, King, Snohomish, Skagit, and Whatcom.

Flood Plain Management: The federal government provides low cost flood insurance for communities that meet minimum requirements through the Federal Emergency Management Agency (FEMA). To qualify for federal flood insurance, local governments must adopt, implement, and enforce ordinances that meet federal flood plain requirements. The federal requirements specify that: 1) the first habitable floor of a residential structure in the flood plain is built at least one foot above the level of a 100 year flood; 2) local permits are issued for buildings in the flood plain; and 3) structures within the FEMA floodway meet a "zero-rise" standard. The FEMA floodway is the area containing the swiftest and deepest flows of a flooding river or stream. "Zero-rise" means that a structure must be built in a way that does not impede the flow of floodwaters. Approximately 250 cities and counties qualify under the federal insurance program; 10 percent of eligible cities and counties do not qualify.

Federal law allows development to cause up to a one foot rise in the flood plain.

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

Comprehensive Flood Plans: Comprehensive flood plans are optional. County plans can apply to cities or towns but an arbitration process is established if a plan is not adopted by a city or town. Cities or towns can adopt their own plans. State Flood Control Assistant Account Program (FCAAP) funds will pay up to 75 percent of the preparation of a comprehensive flood plan.

State Flood Funding: Current law requires the state flood (FCAAP) account to be funded at a level of \$4 million minus any unspent funds from the previous biennium. The FCAAP account is funded through the state general fund.

Counties, cities, and special districts are eligible for FCAAP grants. Grants of up to \$500,000 are available for jurisdictions within a county. Grants of up to 50 percent are available for maintenance of existing projects. Projects using state funds must be consistent with the comprehensive flood plan.

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:

Part I: Zero-Rise Floodway: By July 1, 1994, the Department of Ecology must prepare a model ordinance establishing a zero-rise floodway. The zero-rise floodway ordinance must provide that new and substantially improved structures built in the flood plain: 1) do not cause a rise in floodwaters; and 2) do not decrease the net storage capacity of the flood plain.

The model ordinance must also address differences between incorporated and unincorporated areas, allow a project proponent to meet the zero-rise provisions by arranging a legal agreement with affected property owners, describe construction methods for meeting the zero-rise provisions, provide a variance procedure, and exempt all non-residential structures on farm or agricultural land of 20 acres or more.

Flood-prone counties are required to submit an ordinance to DOE implementing a zero-rise floodway policy by July 1, 1995, and to submit a comprehensive flood hazard management plan to DOE by July 1, 1997. Cities and towns within flood-prone counties are required to submit an ordinance to DOE within one year of adoption of its county's flood plan. Flood-prone counties are defined as those having three or more federally declared flood disasters since January 1, 1979. The zero-rise floodway is defined as the 100 year flood plain.

Flood-prone counties, cities, and towns that do not meet the timelines for establishing a zero-rise floodway policy are ineligible for state FCAAP funds and for state matching grants for federally declared flood disasters. For all counties choosing not to plan, grants from FCAAP will not be available for flood plan preparation or for flood projects after December 31, 1997.

The requirements that the Department of Ecology adopt only flood plain management rules that equal federal minimum standards is deleted. Two sections are repealed. One of the repealed sections authorizes DOE to review and approve or disapprove plans and designs for structures in the floodway. The other repealed section requires the state to participate with local governments on certain flood control projects.

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.

The Department of Ecology is directed to give preference to dikes and levees that provide public access and allow flood waters to safely overtop when providing state flood funds to local governments. Certain dredging projects using state flood funds must monitor sediment accumulation for at least five years.

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.

Part IV: Technical Changes: This section deletes references to "flood control" and replaces them with "flood hazard."

Appropriation: none

Revenue: none

Fiscal Note: available