

SENATE BILL REPORT

ESHB 2462

AS REPORTED BY COMMITTEE ON NATURAL RESOURCES, FEBRUARY 25, 1994

**Brief Description:** Providing for flood hazard management.

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

**HOUSE COMMITTEE ON ENVIRONMENTAL AFFAIRS**

**SENATE COMMITTEE ON NATURAL RESOURCES**

**Majority Report:** Do pass as amended.

Signed by Senators Owen, Chairman; Hargrove, Vice Chairman; Amondson, Erwin, Franklin, Haugen, Oke, Snyder and Spanel.

**Staff:** Kari Guy (786-7464)

**Hearing Dates:** February 23, 1994; February 25, 1994

**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 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:**

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.

The review standards are to be developed by a task force consisting of three representatives appointed by the cities, 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 exceed federal minimum standards are deleted.

Counties that have three or more federally declared flood disasters between January 1, 1974 and January 1, 1994 are defined as "flood-prone." 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 goals 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.

Flood plans prepared in the same watershed must be consistent with each other; disputes are to be resolved by the Growth Planning Hearings Board. 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.

**SUMMARY OF PROPOSED COMMITTEE AMENDMENT:**

Flood prone counties are defined as all counties with three or more federally-declared flood disasters since 1979, changed from 1974. Ten counties meet these criteria: Clallam, Grays Harbor, Jefferson, King, Lewis, Pierce, Skagit, Snohomish, Wahkiakum, and Whatcom.

Four members are added to the flood hazard reduction task force: a representative of the environmental community; a representative of the building industry; and two citizens living in an affected flood plain. The number of votes necessary to adopt funding criteria is increased to ten.

The provision that no city or county shall be eligible for a grant or loan after June 30, 1995 if the flood hazard reduction task force has not agreed to criteria is deleted.

Language is added to ensure that statewide flood plain management regulations do not include requirements to establish a zero-rise floodway.

The definition of meander belt, and all subsequent references, are deleted. Criteria for eligibility for FCAAP funds are changed to delete reference to overtopping levies.

Provisions are added to notification requirements that make these sections null and void if SB 6283 takes effect by January 1, 1995.

New sections are added regarding permitting of projects in an approved flood plan. The Department of Fish and Wildlife is to give priority to hydraulics permits authorizing projects that are critical to implementing an approved flood plan. The Department of Ecology shall expedite processing of shoreline permits authorizing projects from an approved flood plan.

Requirements governing removal of material from aquatic lands are amended to prohibit gravel royalties if the removal of material is for flood control purposes. The Department of Natural Resources is to actively seek to encourage the removal of gravel from streams where there is a flood reduction benefit.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** available

**TESTIMONY FOR:**

This approach provides local options and local flexibility, while ensuring some consistency across the state. This will allow communities to design flood reduction strategies to minimize long term costs.

**TESTIMONY AGAINST:**

Definition of meander belt is too broad. Private businesses need to be included on flood reduction task force.

**TESTIFIED:** Linda Crerar, Department of Ecology (pro); Tim D'Acci, Department of Ecology (pro); Bill Garvin, WA State Farm Bureau; Glen Hudson/Bruce Walton, WA Association of Realtors; Bruce Johnson, Builders/Skagit County, Mount Vernon (con); Kent Lebsack, WA Cattlemen's Association; Pat McElroy, DNR; Ed Manary, Department of Fisheries; Sky Miller, Snohomish County (pro); Jeff Parsons, National Audubon Society (pro); Paul Parker, WA State Association of Counties (pro); Dave Williams, AWC (pro)