

SENATE BILL REPORT

SB 6032

AS REPORTED BY COMMITTEE ON ECOLOGY & PARKS, JANUARY 21, 1994

Brief Description: Authorizing regulation of vegetation height on residential lots along shorelines.

SPONSORS: Senators Winsley and Fraser

SENATE COMMITTEE ON ECOLOGY & PARKS

Majority Report: That Substitute Senate Bill No. 6032 be substituted therefor, and the substitute bill do pass.

Signed by Senators Fraser, Chairman; McCaslin, Moore, Morton, Sutherland and Talmadge.

Staff: Cathy Baker (786-7708)

Hearing Dates: January 19, 1994; January 21, 1994

BACKGROUND:

The Shoreline Management Act establishes a cooperative program of shoreline management between local government and the state. Under the shoreline act, counties and cities are required to develop comprehensive shoreline use plans and regulations which are known as "shoreline master programs." The state Department of Ecology is responsible for developing guidelines and regulations for local shoreline master programs, and reviews shoreline development permits issued by local governments.

The state law requires that a shoreline permit be required for any construction along shorelines that constitutes substantial development. Substantial development is defined as any development of which the total cost or fair market value exceeds \$2500, or any development which materially interferes with the normal public use of the water or shorelines of the state. However, even if an activity does not constitute substantial development requiring a shoreline permit, it still must comply with the prohibitions, regulations and standards set forth in the local shoreline master program.

Shorelines subject to regulation under the shoreline act include all marine waters of the state and the lands underlying them, lakes over 20 acres, streams and rivers with a mean annual flow of over 20 cubic feet per second, areas within 200 feet of these waters, and associated floodplains and wetlands.

Under the shoreline act, preference is given to shoreline uses which preserve the natural character of the shoreline, protect the resources and ecology of the shoreline, are dependent upon proximity to the shoreline and which preserve and enhance

public access or increase recreational opportunities for the public along shorelines. The act states that in implementation of local shoreline programs, the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state.

Some local government shoreline master programs currently contain provisions dealing with view protection. In one county, the local shoreline master program regulations state that residential development shall be arranged and designed to protect views, vistas, aesthetic values to protect the character of the shoreline environment and the views of neighboring property owners.

Under current law, the shoreline act does not contain any provisions on regulating the height of vegetation. However, there are provisions in statute dealing with the height of structures. The law states that shoreline master permits shall not be issued for any new or expanded building or structure of more than 35 feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines except where a master program does not prohibit the same and then only when overriding considerations of the public interest will be served.

Provisions in the shoreline statute and in the Department of Ecology's shoreline rules generally provide direction to maintain vegetative cover along shorelines. The department's shoreline master program handbook notes that vegetation can stabilize eroding shorelines, provide habitat for wildlife, and contribute to shoreline aesthetics.

SUMMARY:

Local governments are authorized to include elements in their shoreline master programs for regulating the height of planted vegetation on residential lots along shorelines. Where planted vegetation obstructs the view of a substantial number of residences on areas adjoining shorelines of the state, local shoreline master programs shall establish appropriate standards for vegetation height and bulk, except where the planted vegetation is necessary for protecting the shoreline from erosion or the vegetation is needed for protecting habitat. These provisions do not apply to vegetation management on lands devoted to agriculture or forest management.

EFFECT OF PROPOSED SUBSTITUTE:

All provisions in the original bill are stricken.

New language is added to the shoreline statute stating that persons shall not install on shoreline property used for residential or commercial purposes any ornamental vegetation

which will significantly obstruct or restrict the view from existing residences on areas adjoining such shorelines.

Ornamental vegetation is defined as any type of plant introduced to the site by the owner or their agent, except vegetation introduced pursuant to a requirement for environmental mitigation or remediation.

Local shoreline master programs are authorized to include provisions establishing appropriate height and bulk standards for ornamental vegetation in residential and commercial areas of the shoreline that balance view protection and aesthetic considerations. The adoption of such provisions shall constitute compliance with this act. Such provisions shall not apply to lands managed for open space, forestry or agricultural purposes.

Appropriation: none

Revenue: none

Fiscal Note: requested January 10, 1994

TESTIMONY FOR:

The bill will close an apparent loophole in the Shoreline Management Act which allows views to be obstructed by ornamental vegetation along shorelines. The height of structures and fences is currently covered by local shoreline programs, but not vegetation. Allowing local shoreline programs to address height of vegetation will help protect public views of the shoreline.

TESTIMONY AGAINST:

Allowing local governments to regulate vegetation along shorelines for view protection and aesthetic reasons could harm some property owners. Obtaining a view easement or purchasing the property are preferable alternatives to regulation as a means of protecting views of shorelines.

TESTIFIED: Senator Shirley Winsley (prime sponsor); Jay Shephard, Department of Ecology; Bruce Walton, Washington Association of Realtors (con)