

SENATE BILL REPORT

SHB 2911

As of February 25, 1998

Title: An act relating to substantive authority and imposition of mitigation measures under the state environmental policy act.

Brief Description: Imposing mitigation measures under the state environmental policy act.

Sponsors: House Committee on House Government Reform & Land Use (originally sponsored by Representatives Reams, Cairnes and Thompson).

Brief History:

Committee Activity: Agriculture & Environment: 2/26/98.

SENATE COMMITTEE ON AGRICULTURE & ENVIRONMENT

Staff: Kari Guy (786-7437)

Background: Growth Management Act. The Growth Management Act (GMA) requires certain counties, and cities located in those counties, to plan according to statutory requirements. Each jurisdiction planning under GMA is required to adopt a comprehensive plan with specific statutory elements, including among others a land use element, housing element, and capital facilities plan element. GMA jurisdictions must adopt urban growth areas, within which urban growth is encouraged and outside of which growth may occur only if it is not urban in nature. GMA jurisdictions must also adopt development regulations to implement their comprehensive plans.

Land use planning choices made in comprehensive plans and development regulations are the foundation for project review. A GMA jurisdiction must incorporate certain determinations in reviewing a project's consistency with its development regulations and comprehensive plan. These issues are determinative of the land use, density and public facilities with respect to project review.

All jurisdictions must adopt critical areas regulations, regardless of whether they plan under GMA.

Authority to Impose Mitigation or Impact Fees. Chapter 82.02 RCW provides the general framework for GMA jurisdictions to impose impact fees, which are intended to impose only a proportionate share of costs for system improvements reasonably related to new development and are to be used for system improvements that will reasonably benefit the new development. The Chapter 82.02 RCW system improvements include roads, parks, schools and fire protection facilities. RCW 82.02.090 expressly prohibits imposing an impact fee for system improvements upon a person required to pay a fee for the same system improvements under the State Environmental Policy Act (SEPA).

State Environmental Policy Act. SEPA requires local governments and state agencies to prepare an environmental impact statement if proposed legislation or other major action may have a probable significant, adverse impact on the environment. The responsible official has authority to make the threshold determination whether an environmental impact statement must be prepared.

If it appears that a probable significant adverse environmental impact may result, the proposal may be altered or its probable significant adverse impact mitigated. If this cannot be accomplished, an environmental impact statement must be prepared. The environmental impact statement is limited, or scoped, to address only the matters determined to have a probable significant adverse environmental impact.

SEPA is an alternative route to address needs for system improvements attributable to new development. Any action may be conditioned or denied pursuant to SEPA to mitigate specific adverse environmental impacts based on policies identified and designated by the agency or local government as possible bases for the exercise of SEPA authority.

A GMA jurisdiction may determine its comprehensive plan and development regulations provide adequate analysis of, and mitigation for, specific adverse environmental impacts of a project if certain findings are made. A jurisdiction which makes such a determination may not impose additional mitigation for those impacts under SEPA.

SEPA mitigation fees cannot be imposed for system improvements for which impact fees were assessed under chapter 82.02 RCW.

Summary of Bill: Provisions relating to SEPA authority to impose conditions, to review specified environmental impacts and to impose mitigation fees are revised.

Growth Management Act. A GMA jurisdiction's critical areas regulations are deemed determinative of critical areas protections for purposes of project review. For GMA jurisdictions, comprehensive plans and development regulations adopted pursuant to GMA are deemed to provide adequate analysis of and mitigation for specific adverse environmental impacts for project review purposes. A non-GMA jurisdiction may determine its plans and regulations and provide adequate analysis and mitigation.

SEPA may not be used to impose additional mitigation for impacts which are deemed adequately analyzed and mitigated in comprehensive plans and development regulations. SEPA may only be used to mitigate impacts not adequately analyzed and mitigated in these documents. SEPA project review is based on GMA (or other) regulations and plans in effect on the date a complete application is filed and must be consistent with GMA plans and regulations.

Authority to Impose Mitigation or Impact Fees. Chapter 82.02 RCW provides the exclusive basis for GMA jurisdictions to mitigate the costs of system improvements identified in that chapter. A GMA jurisdiction may not impose a SEPA mitigation fee for any system improvement for which it has authority to impose an impact fee pursuant to Chapter 82.02 RCW.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.