

# SENATE BILL REPORT

## ESB 6208

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As Passed Senate, June 21, 2001

**Title:** An act relating to planning under the growth management act and the shoreline management act.

**Brief Description:** Coordinating the planning process of the growth management act and the shoreline management act.

**Sponsors:** Senator Snyder.

**Brief History:**

**Second Special Session:** Passed Senate: 6/21/01, 27-11.

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**Staff:** Vic Moon (786-7469)

**Background:** The Shoreline Management Act of Washington was passed by the Legislature as an alternative to an initiative and was approved by the voters in November 1972. It took local governments approximately five years to develop the local government standards based on the shoreline guidelines adopted by the Department of Ecology.

In 1995, the Shoreline Management Act was substantially amended by the Regulatory Reform Act. The policy of the Legislature was to provide integration between the Shoreline Management Act, State Environmental Policy Act and the Growth Management Act and to require that the Department of Ecology improve oversight over the Shoreline Management Act. The Department of Ecology was required to update master program guidelines every five years. In addition, the appeals of master program revisions for those jurisdictions under the state's Growth Management Act were to go to the Growth Management Hearings Board, rather than the Shoreline Hearings Board.

In 1999, the Department of Ecology offered its first new master program guidelines. The department held nine hearings and elected to make substantial changes to the original draft. From 1999 to February 2000, the Department of Ecology sought review of the new draft rule.

The department held hearings throughout the state on the new guidelines and the director signed the new master program guidelines in November 2000. The guidelines went into effect December 2000.

**Summary of Bill:** The intent of the bill is to provide coordination of the Growth Management Act (GMA) and Shoreline Management Act (SMA).

The existing September 1, 2002, deadline for reviews and evaluations of GMA comprehensive plans and development regulations is replaced with a phased schedule for all counties and cities as specified in statute and established by the Department of Community, Trade and Economic Development (DCTED) according to the following requirements:

- distinction between review and evaluation requirements for GMA jurisdictions (i.e., comprehensive plans and development regulations) and non-GMA jurisdictions (i.e., policies and regulations regarding critical areas and natural resource lands);
- deadlines of December 1, 2003 (critical areas) and July 1, 2004 (other GMA requirements) for buildable lands jurisdictions instead of the September 1, 2002 review deadline;
- deadlines from December 1 of 2004-2007 instead of the 2002 review deadline for other jurisdictions;
- future reviews at least every five years (i.e., after current round) for buildable lands jurisdictions;
- future reviews at least every ten years (i.e., after current round) for all other jurisdictions; and
- provisions for buildable lands (not all) jurisdictions to satisfy the first review requirements if the jurisdiction conducted a review and evaluation on or after January 1, 2001, based on a review schedule adopted by local ordinance.

Local governments are not precluded from reviewing and updating their plans and regulations earlier than established deadlines and access to grants for early reviews is subject to available funds.

The requirement for the Department of Ecology (DOE) to review its guidelines is changed from at least once every five years to at least once every ten years.

The 24-month deadline for development or amendment of shoreline master programs after DOE adoption of guidelines is replaced with a phased schedule for all counties and cities as specified in statute and established by the DOE. Buildable lands jurisdictions must develop or amend master programs by December 1, 2003, and at least every five years thereafter. A phased deadline schedule from December 1 of 2004-2007 is provided for current round of updates and at least every ten years thereafter for other jurisdictions. The DOE guidelines adoption as the trigger for development or adoption of shoreline master programs is repealed.

Local governments must report the actual costs of satisfying the master program update requirement to the shorelines oversight committee.

The Legislature's amendment of master program requirements does not intend to imply legislative approval or disapproval of any DOE administrative actions taken or DOE guidelines adopted under the SMA.

Legislative intent is included regarding the purpose of the phased schedule to allow review by the shorelines oversight committee of buildable lands' jurisdictions implementation experiences to consider the financial, environmental, economic, and other impacts and to allow the Legislature to consider the need for any statutory or regulatory changes before the other jurisdictions' deadlines.

A 12-member legislative shorelines oversight committee (six House and six Senate) is established to review and make recommendations on specified issues. The committee must hire a contractor(s) to perform the assessment and the contractor(s) is required to establish and work with an advisory committee including agency representatives and stakeholders.

The committee must submit annual reports to the Legislature by November 30 of each year between 2001 and 2005. The committee expires on June 30, 2006.

DOE must submit proposals to amend guidelines and/or SMA amendments based on local experiences in implementing rules and/or oversight committee recommendations to the Legislature during 2001-2005 and proposals may not take effect until the end of the legislative session. Negotiated rule-making of final proposed amendments must be submitted to the Legislature after the committee's final report. The Legislature must consider whether to sunset or amend the guidelines after the final report.

DOE, in reviewing and approving master programs, must recognize local governments' responsibility to plan for reasonable and appropriate uses in implementing SMA policy. The SMA may allow alteration of natural shoreline conditions when provided in SMA policy.

Neither the guidelines nor local master programs may require modification or limitation of agricultural activities on agricultural lands. Master programs in jurisdictions in which agricultural activities occur must include provisions addressing: (1) new agricultural activities on non-agricultural land; (2) conversion of agricultural lands to other uses; and (3) development not meeting the definition of agricultural activities.

The GMA public participation process must include measures to satisfy SMA public participation requirements for master program development or amendment.

All GMA jurisdictions, within two years of the deadline for GMA plan review and evaluation, must develop an integrated and consolidated planning process for review, revision, development or amendment of GMA plans and regulations and SMA master programs.

DCTED must provide training and technical assistance to local governments regarding establishment of the integrated GMA/SMA planning process.

The public participation process under the GMA must satisfy the local government public participation requirements under the SMA for master program development.

The SMA is amended to require all GMA jurisdictions, within two years of the deadline for GMA plan review and evaluation, to develop an integrated and consolidated planning process for review, revision, development or amendment of GMA plans and regulations and SMA master programs.

DOE's decision regarding a master program does not change the presumption of validity or burden of persuasion in a GMA appeal of a critical areas ordinance.

The equal matching fund requirement for local governments receiving grants for shoreline master program development or amendment is eliminated.

The growth management hearings boards must stay appeals of GMA plans and regulations adopted concurrently with SMA master programs or amendments until the end of the SMA appeal period if the county or city provides notice of concurrent adoption and unless all parties agree in writing to separate appeals.

180 days after the stay of proceedings is established as the time period for issuance of a final decision by a growth management hearings board in a case involving a stay of proceedings based on concurrent adoption of GMA/SMA plans and programs.

Jurisdictions must consider new land available for development and increased densities when determining change. The change must be docketed and addressed (through consideration of changes to countywide planning policies, comprehensive plans or development regulations) during periodic reviews of GMA plans and regulations according to time periods specified in the GMA. The jurisdiction determining a change must make every effort to include a transfer of development densities or uses, if feasible for land in a specified preference order.

The Legislature's enactment of this bill does not intend to imply legislative approval or disapproval of any DOE administrative actions taken or DOE guidelines adopted under the SMA.

The shorelines review committee expires on August 1, 2006.

A severability clause is included.

An appropriation of \$7 million is made for the biennium to the DOE for SMA updates (\$6.4 million to local governments and \$0.6 million for DOE technical assistance and the shorelines oversight committee contractor). An appropriation of \$3 million for the biennium is made to DCTED for local governments to conduct GMA updates.

**Appropriation:** \$10 million GF.

**Fiscal Note:** Not requested.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.