

HOUSE BILL REPORT

ESHB 1769

As Passed House:

March 17, 2003

Title: An act relating to timelines and funding for implementation of guidelines for shoreline master programs.

Brief Description: Establishing a schedule of time limits under which local governments must develop or amend shoreline master plans.

Sponsors: By House Committee on Local Government (originally sponsored by Representatives Romero, Cooper, Dunshee, Linville and Edwards; by request of Governor Locke).

Brief History:

Committee Activity:

Local Government: 2/27/03, 3/5/03 [DPS];

Appropriations: 3/8/03 [DPS(LG)].

Floor Activity:

Passed House: 3/17/03, 60-37.

Brief Summary of Engrossed Substitute Bill

- Replaces the 24-month deadline for development or amendment of shoreline master programs with a staggered statutory schedule.
- Removes the limits on the Department of Ecology (DOE) grants to local governments for developing master programs and establishes new grant funding and related compliance requirements.
- Requires local governments to conduct a comprehensive master program review at least once every seven years after the applicable deadlines in the established schedule.
- Requires the DOE to review master program guidelines every seven years beginning July 1, 2015.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Romero, Chair; Upthegrove, Vice Chair;

Jarrett, Assistant Ranking Minority Member; Berkey, Clibborn, and Moeller.

Minority Report: Do not pass. Signed by 4 members: Representatives Schindler, Ranking Minority Member; Ahern, Ericksen and Mielke.

Staff: Ethan Moreno (786-7386).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Local Government be substituted therefor and the substitute bill do pass. Signed by 21 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Alexander, Buck, Cody, Conway, Cox, DeBolt, Dunshee, Grant, Hunter, Kagi, Kenney, Kessler, Linville, McDonald, McIntire, Miloscia, Pflug, Ruderman and Schual-Berke.

Minority Report: Do not pass. Signed by 6 members: Representatives Sehlin, Ranking Minority Member; Pearson, Assistant Ranking Minority Member; Boldt, Clements, Sump and Talcott.

Staff: Patricia Linehan (786-7178).

Background:

The Shoreline Management Act (SMA) governs the uses of state shorelines. The SMA requires all counties and cities with shorelines of the state to adopt master programs to regulate land use activities in shoreline areas of the state.

The SMA also requires the DOE to adopt state shoreline master program guidelines for local governments to use when developing their master programs. The DOE is required to conduct a review of the guidelines at least once every five years but may not propose amendments to the guidelines more than once each year. Local governments must develop or amend shoreline master programs within 24 months after the adoption of guidelines by the DOE.

The DOE is authorized to make and administer grants of legislatively appropriated funds to local governments for developing master programs. Grants must not be made in an amount in excess of the recipient's contribution to the estimated cost of the program.

Summary of Engrossed Substitute Bill:

The SMA provision requiring local governments to develop or amend shoreline master programs within 24 months after the adoption of guidelines by the DOE is replaced with a staggered schedule. The initial deadline for developing or amending master programs under the established schedule will occur on or before December 1, 2005, with

subsequent deadlines continuing through the staggered schedule until December 1, 2014. Provisions are included for local governments required or choosing to develop or amend master programs on or before December 1, 2009. Local governments meeting specific date and other criteria that have new or amended master programs approved by the DOE are not required to develop or amend master programs until seven years after the applicable date established by the schedule.

Grant funding and related compliance date provisions are specified. Grants to local governments for master program development or amendments must be provided at least two years before the established compliance dates. Local governments applying for but not receiving funding may delay development or amendment of their master programs until the following biennium. Local governments exercising this provision to delay must be the first funding priority in the subsequent biennium. Additionally, the current statutory provision prohibiting the DOE from making grants to local governments in excess of the recipient's contribution to the estimated program cost is removed.

Following the initial round of developing and amending of master programs, local governments are required to conduct a comprehensive review of their master programs at least once every seven years after the applicable dates established by the schedule. Following the review, local governments must, as necessary, revise their master programs.

The guideline review authority of the DOE is revised to allow the agency to adopt annual amendments to the guidelines. The annual amendments, however, are limited to either technical and procedural issues resulting from reviewing and adopting master programs under the guidelines or issues of statutory compliance. In addition, the existing provision requiring the DOE to conduct a review of the guidelines every five years is replaced with a provision requiring reviews every seven years beginning July 1, 2015.

Legislative intent and findings for the act are specified.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: (Local Government) This bill replaces the insufficient 24-month requirement in present law with a staggered schedule for updating master programs. This bill represents a major step forward toward resolving difficult issues. This bill should move forward and allow negotiations with cities and counties to continue. The staggered timeframe of this bill represents a reasonable approach to scheduling master program updates. The Governor's budget includes \$2 million for the initial master program

updates. The language of the bill represents both a negotiated settlement and good public policy.

Testimony For: (Appropriations) The bill establishes a reasonable time schedule for local governments to update their shoreline master programs and eliminates the 50 percent match requirement for local governments. This bill is the legislative piece needed to move forward with shoreline guidelines as a result of the settlement with the Association of Washington Businesses (AWB) and the Washington Environmental Council, who are lead plaintiffs. Local governments are concerned about funding. This legislation extends the current two year schedule for local governments to adopt their revised shoreline master programs. The Governor's proposed 2003-05 budget provides \$2 million to get those plans implemented in the next biennium. It is not often that the environmental community and the AWB and the other litigation parties settle on an issue of this magnitude, so we urge you to pass this bill and keep negotiations open. An item in this bill that will help with some of the fiscal concerns is allowing some early adoption jurisdictions to begin early adoption, so that additional fiscal considerations can be identified.

(With concerns) Serious discussions regarding a funding resolution are currently taking place. Without funding, there would be opposition to this bill. If funding is not provided along with this obligation, then litigation is expected. The \$20 million cost estimates identified in the fiscal note are probably low, because this is going to be an expensive undertaking. These costs were based upon a set of guidelines that were from a previous time and the true costs are still unknown.

Testimony Against: (Local Government) This bill addresses complicated issues, references a schedule and rules that do not exist, and has unknown associated costs. This bill will be expensive to implement and may represent a transfer of burden— from the state to cities. A dedicated fund to cover the costs of developing or amending master programs would offer assurances to local governments. The capacity to comply with the provisions of this bill will not exist without full funding two years prior to completion of master program updates.

Testimony Against: (Appropriations) None.

Testified: (Local Government) Jay Manning, Washington Environmental Council; Gary Chandler and Kristen Sawin, Association of Washington Business; Tom Fitzsimmons, Department of Ecology; Ron Schultz, Office of the Governor; and Willy O'Neil, Association of General Contractors of Washington.

(Against) Dave Williams, Association of Washington Cities; Robert Mack, Cities of Bellevue, Lakewood, Tacoma, and Spokane; and Scott Merriman, Washington State Association of Counties.

Testified: (Appropriations) (In support) Clifford Traisman, Washington Environmental Council, Washington Conservation Voters; Kristen Sawin, Association of Washington Business; Willy O'Neil, Association of General Contractors of Washington; and Ted Sturdevant, Department of Ecology.

(With concerns) Scott Merriman, Association of Washington Counties; and Dave Williams, Association of Washington Cities.