Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Local Government Committee

HB 2514

Brief Description: Clarifying critical areas.

Sponsors: Representatives Upthegrove, Jarrett and Chase.

Brief Summary of Bill

- Defines "best available science" in the Growth Management Act (GMA).
- Allows local governments to choose within a range of scientific information when complying with specific GMA requirements.
- Allows local governments to employ innovative and experimental approaches when satisfying the GMA requirement to protect critical areas.

Hearing Date: 1/29/04

Staff: Ethan Moreno (786-7386).

Background:

The Growth Management Act (GMA) establishes a comprehensive land use planning framework for county and city governments in Washington. Counties and cities meeting specific population and growth criteria are required to comply with the major requirements of the GMA. Counties not meeting these criteria may choose to plan under the GMA. Twenty-nine of 39 counties, and the cities within those 29 counties, are required to or have chosen to comply with the major requirements of the GMA (GMA jurisdictions).

In addition to other GMA requirements, all local governments must designate and protect critical areas. Critical areas are defined by statute to include wetlands, aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas. Each county and city must include the "best available science" in developing policies and development regulations to protect the functions and values of critical areas. The GMA does not define "best available science."

Summary of Bill:

BEST AVAILABLE SCIENCE

"Best available science" is defined by bifurcating the term. "Best available" means science that applies to the physical and biological setting under consideration and is practically and economically feasible to be implemented. A city or county is not required to conduct or commission new scientific studies to fill gaps in existing scientific information.

"Science" is defined as a process involving sound methods to reach conclusions to understand the workings of the natural world. The characteristics of a sound scientific process include:

- findings that have been critically reviewed by qualified scientific experts in the field;
- methods that are standard in the field or peer reviewed;
- conclusions that are logical and the inferences drawn from those conclusions reasonable given the data and methods;
- data that has been analyzed using standard or peer reviewed quantitative or statistical methods;
- data and findings that are considered in their proper physical and biological context; and
- assumptions, analytical techniques, and conclusions that are referenced to relevant, credibly sound scientific literature.

SCIENTIFIC INFORMATION - CHARACTERISTICS AND LOCAL GOVERNMENT APPLICATION

Sources of sound scientific information may incorporate fewer than the generally accepted characteristics of science, as the process is defined above. The greater the number of characteristics incorporated into the process, the more sound and reliable the conclusions are likely to be. Local governments are afforded discretion in making valid scientific information choices, provided the range of discretion corresponds to the range of valid science.

PROTECTION OF CRITICAL AREAS - LOCAL GOVERNMENT APPROACHES

Local governments may employ innovative approaches to protect critical areas when the approaches include the best available science.

Local governments also may employ experimental approaches to protect critical areas. If, however, a local government bases a management decision regarding a critical area on information that does not satisfy all of the characteristics of science, or on conflicting information, the jurisdiction must comply with specific monitoring and management requirements to ensure protection of critical area functions and values.

Appropriation: None.

Fiscal Note: Not requested.

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