
Local Government Committee

SSB 6012

Brief Description: Codifying shoreline rules.

Sponsors: Senate Committee on Land Use & Planning (originally sponsored by Senators Mulliken, T. Sheldon and Morton).

Brief Summary of Substitute Bill

- Codifies guidelines regulating uses of shorelines for the implementation of the Shoreline Management Act (SMA).
- Removes the authority of the Department of Ecology to promulgate or review guidelines consistent with the policy of the SMA.

Hearing Date: 4/2/03

Staff: Ethan Moreno (786-7386).

Background:

Shoreline Management Act

Enacted in 1971, the Shoreline Management Act (SMA) governs uses of state shorelines. The SMA enunciates state "policy" to provide for shoreline management by planning for and fostering "all reasonable and appropriate uses." The SMA prioritizes public shoreline access and creates "preference" criteria listed in an order of priority that must be used by state and local governments in regulating shoreline uses.

The SMA involves a cooperative regulatory approach between local governments and the state. At the local level, SMA regulations are developed in local shoreline master programs (master programs). All counties and cities with shorelines of the state are required to adopt master programs which regulate land use activities in shoreline areas of the state. Counties and cities are also required to enforce their master programs within their jurisdictions.

Master programs have certain mandatory elements as appropriate. Among other requirements, the master program elements provide for economic development, public access, recreation,

circulation, use, and conservation. Local governments may also include other elements necessary to implement the SMA requirements.

Master Program Guidelines

The Department of Ecology (DOE) is required to adopt state shoreline master program guidelines (Guidelines) for local governments to use when developing their master programs. The Guidelines are adopted in the form of administrative rules. The DOE also is required to approve master programs and consider the Guidelines when reviewing and approving these master programs.

In 1995 the Legislature directed the DOE to review the Guidelines at least once every five years. Pursuant to that direction, in April 1999 the DOE issued revised Guidelines as a draft rule. After conducting a series of public hearings and receiving more than 2,000 comments, the DOE withdrew the draft Guidelines in late 1999. In June 2000 the DOE began the rule making process for a revised version of draft Guidelines. These draft Guidelines were formally adopted as a rule in November 2000.

The November 2000 Guidelines were appealed to the Shorelines Hearings Board (SHB) by various parties. Appellants challenged numerous issues regarding the validity of the Guidelines and the DOE's authority to include some of the provisions in the Guidelines.

In August 2001 the SHB invalidated the November 2000 Guidelines. The SHB concluded the November 2000 Guidelines exceeded the statutory authority of the SMA and failed to comply with state Administrative Procedure Act requirements.

The November 2000 Guidelines repealed the Guidelines in effect prior to their adoption. The SHB did not reinstate the previous Guidelines or address their validity.

Summary of Bill:

The state shoreline master program guidelines (Guidelines) in effect prior to adoption of the November 2000 Guidelines are enacted as a new chapter in the revised code of Washington. The codified Guidelines establish broad and specific policies, procedures, and criteria for use by local governments when developing and amending master programs.

The authority of the Department of Ecology (DOE) to adopt and review Guidelines consistent with the policy of the SMA is removed. Related statutory references to previously adopted Guidelines and the DOE's adoption authority within the SMA are amended or removed.

Appropriation: None.

Fiscal Note: Not Requested.

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