

# SENATE BILL REPORT

## SB 5619

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As Reported By Senate Committee On:  
Water, Energy & Environment, March 1, 2005

**Title:** An act relating to considering water quality when preparing and reviewing growth management plans and regulations.

**Brief Description:** Requiring consideration of water quality during growth management planning.

**Sponsors:** Senators Kline, Pridemore, Kastama, Poulsen, Rockefeller, Fairley, Fraser and Kohl-Welles.

**Brief History:**

**Committee Activity:** Water, Energy & Environment: 2/15/05, 3/1/05 [DPS, DNP].

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### SENATE COMMITTEE ON WATER, ENERGY & ENVIRONMENT

**Majority Report:** That Substitute Senate Bill No. 5619 be substituted therefor, and the substitute bill do pass.

Signed by Senators Poulsen, Chair; Rockefeller, Vice Chair; Fraser, Pridemore and Regala.

**Minority Report:** Do not pass.

Signed by Senators Morton, Ranking Minority Member; Hewitt, Honeyford and Mulliken.

**Staff:** Richard Rodger (786-7461)

**Background:** The federal Clean Water Act (CWA) sets goals to restore and maintain chemical, physical, and biological integrity of the nation's waters and limits pollutant discharges into navigable waters. The Department of Ecology (DOE) has been delegated authority by the federal government to enforce the CWA and is also authorized by state law to implement state water quality programs.

The Growth Management Act (GMA) requires certain counties to designate urban growth areas within which urban growth must be located. The urban growth area must include area sufficient to permit the growth that is projected to occur in the county for the succeeding 20-year period, and must permit a range of urban densities and uses. Counties and cities under the GMA must prepare comprehensive plans that include elements covering land use, housing, capital facilities, utilities, rural areas, transportation, economic development, and parks and recreation.

The land use element of the GMA comprehensive plan must provide for the protection of the quality and quantity of ground water used for public water supplies. The plan also requires, where necessary, guidance for corrective actions to mitigate or cleanse discharges that pollute

waters of the state. Additionally, the rural element of the plan requires the protection of critical areas and surface water and ground water resources.

The comprehensive plans must be reviewed at least every ten years under a statutory schedule.

**Summary of Substitute Bill:** The Legislature finds the marine waters of the state to be at significant risk from development along the state's shorelines. The adverse coastal impacts occur not only from local use, but include impacts from uses occurring a considerable distance away.

Counties whose boundaries include Hood Canal, Puget Sound, the Strait of Juan de Fuca, or the Pacific Ocean, and the cities and towns in those counties, when preparing or reviewing comprehensive plans, must consider land use measures to maintain and, when required, enhance water quality and habitat as recommended by public agency plans or programs.

When designating and protecting critical areas these counties and cities must consider measures to maintain and, when required enhance water quality to support fish and wildlife conservation areas, wetlands, and any aquifers used for potable water when surface water body contributes to the source.

These counties and cities, with comprehensive plans adopted under GMA, may not designate urban growth areas (UGAs) on marine shorelines not already occupied by urban growth unless the designation is necessary for water-dependent or water-related uses.

The new requirements must be implemented according to the existing statutory schedule. The bill does not create a new cause of action before a GMA hearings board for any plans or programs not adopted under GMA.

**Substitute Bill Compared to Original Bill:** The original bill is simplified, clarified and narrowed. These changes include the elimination of the cross-references to thirteen environmental statutes, and limiting language regarding the prohibition against expansion of UGAs on shorelines. A new provision is added stating that the bill does not create a new cause of action before the GMA hearings boards.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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

**Testimony For:** This bill requires counties located in marine areas to give consideration to water quality when working on their GMA comprehensive plans and critical area ordinances. It is designed to begin reversing the water quality damage that has already been done by urban growth and development. One-third of the damage to water quality is from the inadequate management of stormwater. The bill adds no additional requirements, but seeks to provide clarity and integration of the existing laws. It will not increase appeals of GMA plans.

**Testimony Against:** This bill is short, but not simple. It requires the consideration of thirteen additional separate chapters of the Revised Code of Washington in order to prepare or update a GMA comprehensive plan. It will be impossible for cities and counties to "consider" all the provisions in those chapters, and will be sued if "adequate consideration" is not given. The bill creates a duplication in the state's hydrologic planning efforts. The bill also contains too many vague, undefined terms that will only lead to litigation. Even if all these statutes are considered in the plan, the bill states it is not enough to meet the requirement of the state and federal water pollution laws. The bill will also restrict growth on what are now affordable lands. The GMA requires growth in urban growth areas, but the bill would prohibit such development along shorelines. The bill may be a back door method of requiring Grays Harbor county to conduct GMA planning and to revise the shoreline guidelines settlement agreement.

**Who Testified:** PRO: Senator Kline, prime sponsor; Josh Baldi, Washington Environmental Council; Bruce Wishart, People for Puget Sound; Genesee Adkins, Futurewise; Harriet Beale, Puget Sound Action Team; Beth Dolio, citizen; Tim Trohimovich, Futurewise; Bryan Flint, Tahoma Audubon.

CON: Kirsten Sawin, AWB; John Stuhlmiller, WA Farm Bureau; Andy Cook, Building Industry Association of Washington; Gordon White, Department of Ecology; Paul Parker, Washington State Association of Counties; Dave Williams, Association of Washington Cities; Doug Levy, Cities of Everett, Kent & Federal Way; Kathleen Collins, Washington Water Policy Alliance.