

SENATE BILL REPORT

SB 5661

As of February 17, 2005

Title: An act relating to categorical exemptions from the state environmental policy act for certain activities.

Brief Description: Creating categorical exemptions from the state environmental policy act for certain activities.

Sponsors: Senators Sheldon, McCaslin, Mulliken and Roach.

Brief History:

Committee Activity: Water, Energy & Environment: 2/15/05.

SENATE COMMITTEE ON WATER, ENERGY & ENVIRONMENT

Staff: William Bridges (786-7424)

Background: The State Environmental Policy Act (SEPA) requires local governments and state agencies to engage in a detailed review of the environmental impact of any proposed legislation or major action. The Act specifies certain actions that are exempt from SEPA review. The Act also directs the Department of Ecology to adopt additional SEPA exemptions and to identify exceptions to the exemptions.

Under Department of Ecology SEPA rules, certain new construction activities are "categorically exempt" from SEPA review if they are, among other things: (1) minor activities; (2) not in a "critical area" (e.g., fish and wildlife habitat); (3) not on lands either wholly or partially covered by water; and (4) not part of a series of actions, some of which are not exempt. The following are two examples of SEPA rules that set a floor and a ceiling for exemptions concerning "minor new construction":

- the construction or location of any residential structure from four to 20 dwelling units; and
- landfill or excavation from 100 to 500 cubic yards throughout the total lifetime of the project.

The SEPA rules permit cities and counties to set their own categorical exemptions if they stay within the established floors and ceilings. For example, a city may choose to exempt residential construction projects of six structures and less.

In addition to the categorical exemptions for minor new construction, an exemption is provided for the approval of a short subdivision. A short subdivision is the division of land into four or fewer lots. A city or county may increase the number of lots in a short subdivision to a maximum of nine. The short division exemption does not apply to lands covered by water or when a city or county has eliminated the exemption for projects in critical areas.

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.

Summary of Bill: Decisions pertaining to the following actions are exempt from SEPA review within urban growth areas:

- the construction of a residential structure of ten or fewer dwelling units;
- division of land into nine or fewer lots; and
- landfill or excavation of 500 cubic yards throughout the total lifetime of the project.

The exemption for residential structures may be raised to 20 dwelling units by the legislative authority of a city or county that is planning under the GMA.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Testimony For: This bill is about simplifying and streamlining the development process and making it easier to spend money and get things built. Development is essential for rural areas because it helps to fund local governments. Most projects that fall into the exemption categories receive a Determination of Nonsignificance (DNS), and the bill will ease the backlog for such determinations. A recent federal HUD report discusses how regulatory fees and environmental regulations boost building costs. The exemptions will save developers and their clients hundreds of dollars. The exemptions are for small projects that do not significantly affect the environment, plus the GMA already protects critical areas.

Testimony Against: SEPA and impact fees are important for funding the infrastructure required by new developments. For those communities that depend on SEPA, and which do not have impact fees, SEPA is the only tool they have to mitigate development. The bill limits local discretion. One unintended consequence of the subdivision exemption is that it may allow the creation of large subdivisions without SEPA review.

Who Testified: PRO: Senator Sheldon, prime sponsor; Andy Cook, Building Industry Assn of Wash.; Daimon Doyle, homebuilder & Building Industry Assn of Wash.

CON: Genesee Adkins, Futurewise; Gordon White, Dept. of Ecology.