

HOUSE BILL REPORT

EHB 1413

As Amended by the Senate

Title: An act relating to changing the definition of floodway in the shoreline management act.

Brief Description: Changing the definition of floodway in the shoreline management act.

Sponsors: By Representatives Eddy, Simpson and Curtis; by request of Department of Ecology.

Brief History:

Committee Activity:

Local Government: 1/30/07, 2/20/07 [DP].

Floor Activity:

Passed House: 3/9/07, 97-0.

Senate Amended.

Passed Senate: 4/13/07, 46-0.

Brief Summary of Engrossed Bill

- Amends the Shoreline Management Act definition of "floodway."

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass. Signed by 7 members: Representatives Simpson, Chair; Eddy, Vice Chair; Curtis, Ranking Minority Member; Schindler, Assistant Ranking Minority Member; Ross, B. Sullivan and Takko.

Staff: Ethan Moreno (786-7386).

Background:

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 enjoyment and creates preference criteria listed in prioritized order 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

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(master programs). All counties and cities with shorelines of the state are required to adopt master programs that 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 must be consistent with guidelines adopted by the Department of Ecology (DOE), and the programs, and segments of or amendments to, become effective when approved by the DOE.

The SMA includes numerous definitions and concepts that guide state and local governments in implementing the SMA. As defined in the SMA, "floodway" means those portions of the area of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually. Floodways are identified, under normal conditions, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition. Floodways must not include lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the state, or political subdivisions of the state.

The SMA does not contain specific requirements that local governments must satisfy for floodways, but floodways are used in determining where the SMA applies. Additionally, administrative rules adopted by the DOE for reducing flood hazards include provisions that apply to uses and activities that may be appropriate or necessary within floodways.

Summary of Engrossed Bill:

The SMA definition of "floodway" is amended to specify that a floodway is the area, as identified in a master program, that either: has been established in Federal Emergency Management Agency flood insurance rate maps or floodway maps; or consists of those portions of a river valley meeting certain requirements. The definition further specifies that floodways may be identified, under normal conditions, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography or other indicators of past flooding. Regardless of the method used to identify the floodway, the floodway must not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the state, or a political subdivision of the state.

EFFECT OF SENATE AMENDMENT(S):

The SMA definition of "floodway" is amended, in part, to specify that floodways may be identified, under normal conditions, by changes in topography or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually, rather than other indicators of past flooding.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill is a tune-up of the SMA that is intended to facilitate pending update actions by local jurisdictions. The current definition of "floodway" is a pothole in the update process. A court case disallowed the use of FEMA maps in establishing floodways; this bill will restore the use of these maps in establishing floodways. Local governments have more difficult matters to work through than defining "floodway." Some jurisdictions have expressed concerns about the potential for expanding floodways under this bill. Support exists for this bill, but it may need an amendment to avoid the possibility of having unintended consequences.

(Opposed) None.

Persons Testifying: Tom Clingman, Department of Ecology; and Dave Williams, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying: None.