

SENATE BILL REPORT

EHB 2734

As of February 27, 2008

Title: An act relating to encouraging the removal of artificial vertical shoreline bank structures by redefining for certain projects the point from where the two hundred feet of shoreline is calculated.

Brief Description: Encouraging the removal of artificial vertical shoreline bank structures.

Sponsors: Representatives Newhouse and Hudgins.

Brief History: Passed House: 2/19/08, 95-0.

Committee Activity: Water, Energy & Telecommunications: 2/26/08.

SENATE COMMITTEE ON WATER, ENERGY & TELECOMMUNICATIONS

Staff: Karen Epps (786-7424)

Background: The Shoreline Management Act (SMA), enacted in 1971, governs uses of state shorelines. The SMA includes specific legislative findings that pressures on shoreline uses and the impacts of unrestricted development on public and private shoreline property create the need to coordinate planning for shoreline development activities. The SMA also finds these pressures create the need to protect private property rights consistent with the public interest.

The Shoreline Management Act applies to all shorelines of the state, which include both shorelines and shorelines of state-wide significance. The SMA applies to all marine water areas of the state, together with the lands underlying them, to the western boundary of the state in the Pacific Ocean, to streams with a mean annual flow of 20 cubic feet per second or more, to lakes larger than 20 acres in area and to reservoirs.

Shorelines, with delineated exceptions, means all of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them. Shorelands or shoreland areas means those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters that are subject to the provisions of the SMA.

Summary of Bill: A proposed project that is located on shorelines designated as, or consistent with, a high-intensity shoreline environment designation under the master plan is

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not required to obtain a substantial development permit under the SMA if the development is within a restoration area.

A restoration area is defined as an area that was created by a landward shift in the ordinary high water mark that resulted from a voluntary habitat restoration project and was not subject to regulation under the SMA prior to the restoration project.

Requests for development approvals within a restoration area may be granted a project variance. These variances may be issued if the shift in shoreline jurisdiction resulting from the restoration project causes hardship and includes measures to ensure that allowable uses of the property result in no net loss of shoreline ecological functions within the restoration area. These variances must be limited to the minimum approvals necessary to afford relief, may not cause the public interest to suffer substantial detriment, and must be processed in the same manner as other shoreline variances.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Engrossed Bill: PRO: This legislation is the result of an interim tour that the House Environmental Health committee took on the Duwamish River in Seattle. There are several areas along that river and other areas of the state that are not being restored for wildlife habitat because of restrictions placed on the land having to do with the 200 foot buffer area. If the restoration work occurs and the shoreline moves in a little, then the buffer moves in as well. This will impact the property owners' ability to use their land. This bill is designed to encourage property owners to do the right thing if those restrictions were not in place. There is a need to amend the regulations to encourage restoration. It is important to encourage restoration projects but there is concern about taking these exemptions too far. It makes sense to grant some relief to people who engage in restoration projects but these decisions need to be made on a case by case basis. Local governments can propose changes, but the state needs to sign off on them.

Persons Testifying: PRO: Representative Newhouse, prime sponsor; Tom Clingman, Department of Ecology; Bruce Wishard, People for Puget Sound.