

# SENATE BILL REPORT

## ESHB 1379

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As of March 23, 2009

**Title:** An act relating to moratoria and other interim official controls adopted under the shoreline management act.

**Brief Description:** Regarding moratoria and other interim official controls adopted under the shoreline management act.

**Sponsors:** House Committee on Local Government & Housing (originally sponsored by Representatives Seaquist, Angel and Liias).

**Brief History:** Passed House: 3/10/09, 60-36.

**Committee Activity:** Government Operations & Elections: 3/26/09.

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### SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

**Staff:** Edward Redmond (786-7471)

**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, the SMA regulations are developed in local shoreline master programs (master programs). All counties and cities with shorelines in the state must adopt master programs that regulate land use activities in shoreline areas of the state. Counties and cities must also enforce master programs within their jurisdictions. Master programs must be consistent with guidelines adopted by the Department of Ecology (DOE). The master programs, and segments of or amendments to such, become effective when approved by the DOE.

The Washington State Supreme Court decision in *Biggers, et. al., v. City of Bainbridge Island*, 162 Wn.2d 683, 169 P.3d 14 (Wash. 2007), held that Bainbridge Island exceeded its authority in adopting rolling moratoria for shoreline development. The majority opinion stated that the city's actions failed, in part, because the SMA does not include an express provision authorizing jurisdictions to adopt moratoria. The concurring opinion held that the

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city had proper authority to adopt moratoria, but that the imposition of rolling moratoria was unreasonable and in excess of its lawful power.

**Summary of Bill:** Local governments may adopt moratoria or other interim official controls as necessary and appropriate to implement the SMA. A local government adopting a moratorium or control under this authority must satisfy timely public hearing requirements, adopt detailed findings of fact, and notify the DOE of the moratorium or control.

A moratorium or control under the SMA may be effective for up to six months if a detailed work plan for remedying the issues and circumstances necessitating the moratorium or control is developed and made available for public review. Moratoria and controls may be renewed for two six-month periods if the local government satisfies public hearing, fact finding, and notification requirements before each renewal.

Specified moratoria and interim official control provisions may not be construed to modify county and city moratoria powers conferred outside the SMA.

**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.