

SENATE BILL REPORT

EHB 1967

As Reported by Senate Committee On:
Government Operations & Elections, March 26, 2009

Title: An act relating to prohibiting expansions of urban growth areas into one hundred year floodplains.

Brief Description: Prohibiting expansions of urban growth areas into one hundred year floodplains.

Sponsors: Representatives White, Campbell, Nelson, Simpson, Williams, Wallace, Dunshee, Dickerson, Hunt, Ormsby and Sullivan.

Brief History: Passed House: 3/10/09, 61-35.

Committee Activity: Government Operations & Elections: 3/23/09, 3/26/09 [DPA, w/oRec].

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

Majority Report: Do pass as amended.

Signed by Senators Fairley, Chair; Oemig, Vice Chair; McDermott, Pridemore and Swecker.

Minority Report: That it be referred without recommendation.

Signed by Senators Roach, Ranking Minority Member; Benton.

Staff: Sharon Swanson (786-7447)

Background: The Department of Ecology (DOE) is authorized to oversee the management of floodplains in conjunction with counties and flood control zone and flood control districts. With respect to floodplain management, the duties of the DOE include:

- the review of county, city, or town floodplain management ordinances;
- generally providing technical guidance and assistance to local governments; and
- assisting local governments in identifying the location of the "100 year floodplain."

Flood control zone districts are authorized to create zones within a county for the purpose of developing or operating flood control projects or storm water control projects.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Flood control districts may be organized in a city, or in any part of a county, or among counties, for purposes that include the planning, development, acquisition, management, or maintenance of any facilities necessary to control floods, lessen their dangers, and reduce damages.

The Growth Management Act (GMA) is the comprehensive land use planning framework for county and city governments in Washington. Enacted in 1990 and 1991, the GMA establishes numerous requirements for local governments obligated by mandate or choice to fully plan under the GMA and a reduced number of directives for all other counties and cities.

The GMA requires all jurisdictions to satisfy specific designation and protection mandates. For example, all local governments must designate and protect critical areas. Critical areas include wetlands, aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas.

The GMA includes planning requirements relating to the use or development of land in urban and rural areas. Among other obligations, counties that comply with the major requirements of the GMA must designate urban growth areas (UGAs) or areas within which urban growth must be encouraged and outside of which growth can occur only if it is not urban in nature. "Urban growth" is defined as a reference to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces, to such a degree as to be incompatible with the primary use of land for specified agricultural, mineral resource, and rural purposes.

Summary of Bill (Recommended Amendments): Subject to specified exceptions, a county, city, or town is prohibited from expanding a UGA into the 100 year floodplain of any river or river segment that:

- is located west of the crest of the Cascade Mountains; and
- has a mean annual flow of 1,000 or more cubic feet per second, as determined by the DOE.

This prohibition does not apply to expansions of an UGA where:

- the UGA is fully contained within a floodplain and lacks adjacent buildable areas outside the floodplain;
- expansion is precluded outside the floodplain because:
 - (1) urban governmental services cannot be physically provided to serve areas outside the floodplain; or
 - (2) expansion outside the floodplain would require a river or estuary crossing to access the expansion;
- public facilities already exist within the floodplain and the expansion of an existing public facility is only possible on the land to be included in the UGA and located within the floodplain;
- urban development already exists within the floodplain as of the effect date of the act and is adjacent to, but outside of, the UGA, and the expansion of the UGA is necessary to include such urban development within the UGA;
- the land is owned by a jurisdiction planning under the GMA; and
- the rights to the development of the land have been permanently extinguished, and

- (1) the permissible use of the land is limited to outdoor recreation; environmentally beneficial projects, including but not limited to habitat enhancement or environmental restoration; storm water facilities; flood control facilities; or underground conveyances; and
- (2) the development and use of such facilities or projects will not decrease flood storage, increase storm water runoff, discharge pollutants to fresh or salt waters during normal operations or floods, or increase hazards to people and property.

"100 year floodplain" is defined by reference to a section of the Washington Administrative Code that defines special flood hazard areas.

EFFECT OF CHANGES MADE BY GOVERNMENT OPERATIONS & ELECTIONS COMMITTEE (Recommended Amendments): Technical cleanup amendment.

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.

Staff Summary of Public Testimony on Engrossed House Bill: PRO: In order to prevent the flood-related tragedies we have seen in this state in the past few years, we need to begin more effective management of the development that occurs on floodplains. Flooding has caused hundreds of millions of dollars in property damage and caused significant numbers of deaths and injuries. Growth must be directed away from floodplains and further encroachment on floodplains needs to be actively discouraged. Currently, there are hundreds of millions of dollars in repairs that need to be implemented. The money and the time to rebuild cause major delays. The past three years have shown that even 100 year floodplains cannot fully prepare us for the full scope of Mother Nature and her power. Passing this bill would be a very proactive first step in limited future property damage and loss of life and livestock. This bill is really only part of the solution.

OTHER: The exceptions in the bill are necessary for the well-being of many communities in western Washington that are located on or adjacent to floodplains. These exceptions should be broader. Without broader exceptions, the bill could have a profound negative impact on the ability of many existing communities to grow. One city in particular is in the process of protecting commercial expansion by raising the dike another four feet. This takes tremendous time and money. What happens to the commercial growth during that time? There is some additional work that needs to take place with the language in the bill.

Persons Testifying: PRO: Allen Rosema, Skagitians to Preserve Farmland; Carolyn Kelly, Skagit Conservation District; Annie Lohman, farmer; Kendra Smith, Skagit County; Gordon White, DOE.

OTHER: Dave Williams, Association of Washington Cities; Mike Ryherd, city of Mt. Vernon.