
Local Government Committee

HB 1088

Brief Description: Limiting the moratoria authority of counties and cities in the ordinary course of comprehensive plan and shoreline master program amendment processes.

Sponsors: Representatives Angel, Haler and McCune.

Brief Summary of Bill

- Prohibits counties and cities, in exercising moratoria authority under the Growth Management Act, from adopting one or more consecutive moratoria during a comprehensive plan amendment process to prevent lawful activities under the plan in anticipation of a change of law by those amendments.
- Prohibits counties and cities, in exercising moratoria authority under the Shoreline Management Act, from adopting one or more consecutive moratoria during a shoreline master program amendment process to prevent lawful activities under the master program in anticipation of a change of law by those amendments.
- Establishes exceptions to the prohibitions for county and city actions that are in response to court decisions or decisions of the Growth Management Hearings Board or the Shorelines Hearings Board.

Hearing Date: 1/19/11

Staff: Ethan Moreno (786-7386).

Background:

Growth Management Act.

The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. Originally enacted in 1990 and 1991, the GMA establishes land use designation and environmental protection requirements for all Washington counties and cities, and a significantly wider array of planning duties for the 29 counties and the cities within that are obligated to satisfy all planning requirements of the GMA.

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.

The GMA directs jurisdictions that fully plan under the GMA to adopt internally consistent comprehensive land use plans that are generalized, coordinated land use policy statements of the governing body. Comprehensive plans are implemented through locally-adopted development regulations, both of which are subject to review and revision requirements prescribed in the GMA.

A Growth Management Hearings Board established in the GMA is charged with hearing and determining petitions alleging noncompliance with the GMA and related statutory provisions.

The GMA includes provisions governing moratoria and other interim official controls (interim controls). Counties and cities that adopt moratoria or other interim controls under the GMA must satisfy timely public hearing requirements and must adopt findings of fact justifying their actions, either before or immediately after the public hearing. Moratoria and other interim controls are generally limited to six-month durations, but they may be effective for up to one year if a work plan meeting specified requirements is developed. Additionally, moratoria and interim controls may be renewed for one or more six-month period if public hearing and findings of fact requirements are satisfied before each renewal.

Shoreline Management Act.

The Shoreline Management Act of 1971 (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 city and county shoreline master programs (master programs) that regulate land use activities in shoreline areas of the state. 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.

A Shorelines Hearings Board established in the SMA is charged with hearing and determining petitions pertaining to shoreline permit decisions, and actions by the DOE to approve or reject master programs or master program amendments.

Legislation adopted in 2009 (*i.e.*, ESHB 1379, enacted as ch. 444, Laws of 2009) granted express moratoria powers in the SMA to local governments and established requirements for the exercise of these powers. Local governments adopting a moratorium or interim control under the SMA must satisfy timely public hearing requirements, adopt detailed findings of fact, and notify the DOE of the moratoria or interim controls. Local governments adopting a moratorium or interim control under the SMA must also provide that all lawfully existing uses, structures, or other development continue to be lawful conforming uses and may, with some exceptions, continue to be maintained, repaired, and redeveloped under applicable land use and shoreline rules and regulations.

A moratorium or interim 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 interim 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 control provisions may not be construed to modify county and city moratoria powers conferred outside the SMA.

Summary of Bill:

New provisions governing the exercise of moratoria authority under the GMA and the SMA are established for cities and counties. Counties and cities, in exercising moratoria authority under the GMA, may not adopt one or more consecutive moratoria during a comprehensive plan amendment process to prevent lawful activities under the plan in anticipation of a change of law by those amendments. This prohibition does not apply to comprehensive plan amendments that are in response to a court decision or a decision of the Growth Management Hearings Board, nor does it affect county and city moratoria powers that are conferred outside of the GMA.

Similarly, counties and cities, in exercising moratoria authority under the SMA, may not adopt one or more consecutive moratoria during a master program amendment process to prevent lawful activities under the master program in anticipation of a change of law by those amendments. This prohibition does not apply to master program amendments that are in response to a court decision or a decision of the Shorelines Hearings Board.

Appropriation: None.

Fiscal Note: Not requested.

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