

HOUSE BILL REPORT

HB 2469

As Reported by House Committee On:
Local Government

Title: An act relating to boatyard storm water treatment systems.

Brief Description: Regarding boatyard storm water treatment systems.

Sponsors: Representatives Upthegrove, Angel, Takko and Asay.

Brief History:

Committee Activity:

Local Government: 1/20/12 [DP].

Brief Summary of Bill

- Establishes an expedited permitting process in the Shoreline Management Act for substantial development permits for boatyard storm water treatment systems.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass. Signed by 7 members: Representatives Takko, Chair; Fitzgibbon, Vice Chair; Angel, Ranking Minority Member; Asay, Assistant Ranking Minority Member; Smith, Springer and Tharinger.

Staff: Ethan Moreno (786-7386).

Background:

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.

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 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, which must be approved by the Department of Ecology (DOE), must be consistent with guidelines adopted by the DOE.

Development may not be undertaken on the shorelines of the state unless it is consistent with the SMA, applicable rules, and the locally-adopted master program. Persons seeking to undertake a "substantial development" on the shoreline must, prior to undertaking the development, obtain a permit from the applicable local government.

Each local government must establish a program for the administration and enforcement of a shoreline permit system. While the SMA specifies standards for local governments to review and approve permit applications, the administration of the permit system is performed exclusively by the local government. Local governments, however, must file shoreline permit application decisions with the DOE and the Attorney General (AG).

The permit review and approval standards of the SMA generally specify that the local permit system must include 30-day public notice periods, and provisions to assure that construction on a project may not begin or be authorized until 21 days from the date the permit was filed with the DOE and the AG or until all timely review proceedings are terminated. The SMA does not prescribe a general timeframe in which local governments must issue permit decisions.

National Pollutant Discharge Elimination System Permits.

The federal Clean Water Act (CWA) sets effluent limitations for discharges of pollutants. "Pollutant" is defined in the CWA to include a variety of materials that may be discharged into water through human activities, construction or industrial processes, or other methods. The DOE is the delegated federal CWA authority by the United States Environmental Protection Agency and is responsible for implementing all federal and state water pollution control laws and regulations.

The CWA establishes the National Pollutant Discharge Elimination System (NPDES) permit system to regulate wastewater discharges from point sources to surface waters. "Point sources" are defined generally as discernible, discrete, and confined conveyances from which pollutant discharges can or do occur. The NPDES permits are required for anyone who discharges wastewater to surface waters or who has a significant potential to impact surface waters. The NPDES permits also are required for storm water discharges from certain industries, construction sites of specified sizes, and municipalities operating municipal separate storm sewer systems that meet specified criteria.

Summary of Bill:

An expedited permitting process in the SMA is established for substantial development permits for boatyard storm water treatment systems. A "boatyard storm water treatment system" is defined as a small-scale enhanced or advanced storm water treatment system that:

will serve an existing boatyard; will not require or include the installation of additional shoreline armoring; and is required for compliance with a national pollutant discharge elimination system storm water general permit under the CWA.

An application for a substantial development permit for a boatyard storm water treatment system under the expedited process must have a 14-day public comment period. Additionally, the public comment notice must state the manner in which the public may obtain a copy of the local government application decision no later than two days following its issuance. The local government must issue its decision to grant or deny the permit within 21 days of the conclusion of the comment period. If the local government determines, through written findings, that the permit is consistent with the substantive requirements of the SMA, the local government must grant the permit.

If there is an appeal of the permit decision to the local government legislative authority, the appeal must be finally determined by the legislative authority within 30 days.

Appropriation: None.

Fiscal Note: Requested on January 16, 2012.

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

Staff Summary of Public Testimony:

(In support) This bill is a win-win for the environment and businesses. The Northwest Marine Trade Association has been working with the DOE and People for Puget Sound on alternate bill language that would create an exemption-based approach to addressing boatyard storm water treatment systems rather than the expedited permitting approach in the bill. This bill is important for the 69 boatyards in the state, most of which are small and privately owned. The marine trade industry is a \$4 billion industry with 28,000 jobs. Installing boatyard storm water treatment systems will be expensive, but boatyard owners want to do the right thing. Boatyard owners are willing to invest substantial funds in treatment systems, but they need the help that this legislation represents. This bill removes uncertainty, helps boatyard owners, and won't cost the state any money. This bill is a work-in-progress and the expedited permit approach is preferred to an exemption-based approach.

(Opposed) None.

Persons Testifying: Peter Schrappen, Northwest Marine Trade Association; Bruce Marshall, Port of Olympia; and Heather Trim, People for Puget Sound.

Persons Signed In To Testify But Not Testifying: None.