
Local Government Committee

SSB 5451

Brief Description: Concerning shoreline structures in a master program adopted under the shoreline management act.

Sponsors: Senate Committee on Natural Resources & Marine Waters (originally sponsored by Senators Ranker, Erickson, Pridemore, Harper, Carrell, Hobbs, Rockefeller, Tom, White and Shin).

Brief Summary of Substitute Bill

- Authorizes new or amended shoreline master programs (master programs) that are approved by the Department of Ecology on or after September 1, 2011, to consider qualifying residential structures as conforming structures.
- Specifies that the redevelopment, expansion, change within the class of occupancy, or replacement of the residential structure must be consistent with the master program.
- Specifies that the residential structure provisions do not restrict the ability of a local government, through its master program, to limit redevelopment, expansion, or replacement of over-water structures located in hazardous areas.

Hearing Date: 3/8/11

Staff: Ethan Moreno (786-7386).

Background:

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

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.

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.

Master programs must allow for variances and conditional use permits to avoid creating unnecessary hardships or thwarting SMA policies. Variances and conditional uses must be based on "extraordinary circumstances," may not substantially impair the public interest, and must be approved by the DOE.

Agency rules adopted by the DOE to implement the SMA include provisions governing nonconforming uses or development within shoreline jurisdiction. For purposes of these rules, a nonconforming use or development is a shoreline use or development that was lawfully constructed or established, but does not conform to current shoreline requirements. The rules specify that uses and developments that were legally established and are nonconforming under a master program may continue as legal nonconforming uses. The rules specify also that structures that were legally established and are used for a conforming use but are nonconforming with regard to setbacks, buffers or yards; area; bulk; height or density may be maintained and repaired. Furthermore these structures may also be enlarged or expanded if the enlargement does not increase the extent of nonconformity.

Summary of Bill:

New or amended master programs that are approved by the DOE on or after September 1, 2011 may include provisions specifying that:

- Principal residential structures that were legally established and are used for a conforming use but that do not meet current standards for: setbacks, buffers, or yards; area; bulk; height; or density may be considered a conforming structure.
- The redevelopment, expansion, change within the class of occupancy, or replacement of the residential structure must be consistent with the master program, including requirements prohibiting a net loss of shoreline ecological functions.

The residential structure provisions do not restrict the ability of a local government, through its master program, to limit redevelopment, expansion, or replacement of over-water structures located in hazardous areas, nor do the provisions affect the application of other codes to structures referenced in the bill.

Appropriation: None.

Fiscal Note: Available on original bill. Not requested on the substitute bill.

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