

SENATE BILL REPORT

SSB 5192

As Amended by House, April 6, 2011

Title: An act relating to provisions for notifications and appeals timelines under the shoreline management act.

Brief Description: Concerning provisions for notifications and appeals timelines under the shoreline management act.

Sponsors: Senate Committee on Government Operations, Tribal Relations & Elections (originally sponsored by Senators Nelson, Swecker and Chase; by request of Department of Ecology).

Brief History:

Committee Activity: Government Operations, Tribal Relations & Elections: 2/03/11, 2/08/11 [DPS].

Passed Senate: 2/25/11, 46-2.

Passed House: 4/06/11, 97-0.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS, TRIBAL RELATIONS & ELECTIONS

Majority Report: That Substitute Senate Bill No. 5192 be substituted therefor, and the substitute bill do pass.

Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker, Ranking Minority Member; Chase, Nelson and Roach.

Staff: Karen Epps (786-7424)

Background: The Shoreline Management Act (SMA), enacted in 1971:

- governs uses of state shorelines;
- includes specific legislative findings that pressures on shoreline uses and the impacts of unrestricted development on public and private shoreline property create the need to coordinate planning for shoreline development activities; and
- finds these pressures create the need to protect private property rights consistent with the public interest.

SMA involves a cooperative regulatory approach between local governments and the state. At the local level, SMA regulations are developed in local shoreline master programs (master

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programs). All counties and cities with shorelines of the state are required to adopt master programs which regulate land use activities in shoreline areas of the state. Counties and cities are also required to enforce master programs within their jurisdictions.

The Shorelines Hearings Board (SHB) hears appeals from shoreline substantial development, conditional use, and variance permit decisions, and from those shoreline penalties jointly issued by local government and the Department of Ecology (Ecology), or issued by Ecology alone.

Summary of Substitute Bill: A master program takes effect 14 days from the date of Ecology's written notice of final action to the local government. Ecology must publish notice that a master program has been approved or disapproved. Ecology's final decision to approve or reject a master program may be appealed to the Growth Management Hearings Board by filing a petition within 60 days as provided in the Growth Management Act.

Permit decisions may be appealed within 21 days of the date of filing (the date of actual receipt by Ecology of the local government's decision). Any permit decision must be filed with Ecology and the Attorney General by return receipt mail. Substantial development, conditional use, and variance permit decisions may be appealed within 21 days of the date of filing (the date Ecology's decision is transmitted to the local government).

Appropriation: None.

Fiscal Note: Available.

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 Original Bill: PRO: This bill is correcting some problems that were created inadvertently last year. It is very important to get the appeal period correct under the SMA. It is not important only in those rare instances where an appeal is filed; the SMA bars a permittee from moving ahead with their project until the appeal period runs. Currently, it is not clear for the applicant when the appeal period starts and ends. It is important to know when the appeal period starts ticking.

Persons Testifying: PRO: Senator Nelson, prime sponsor; Tom Clingman, Department of Ecology; Josh Weiss, Washington Association of Counties.

House Amendment(s):

- Specifies that decisions on shoreline permit applications, which must be filed with Ecology and the Attorney General, must be filed by return receipt requested mail rather than by return receipt mail.
- Requires Ecology to notify the local government and the applicant on the date of filing by telephone or other electronic means, followed by written communication as necessary, to ensure that the applicant has received the full written decision.

- Requires Ecology to, on the day a master program or master program amendment of a local government that does not fully plan under the Growth Management Act is approved or disapproved, notify the legislative authority of the applicable local government by telephone or electronic means, followed by written communication as necessary to ensure that the local government has received the full written approval or disapproval decision.