

SENATE BILL REPORT

E2SSB 5292

As Passed Senate, February 8, 2012

Title: An act relating to exempting certain structures that are constructed and maintained by irrigation districts and port districts from the definition of critical areas.

Brief Description: Exempting certain structures that are constructed and maintained by irrigation districts and port districts from the definition of critical areas.

Sponsors: Senate Committee on Government Operations, Tribal Relations & Elections (originally sponsored by Senators Honeyford, Schoesler, Swecker, Holmquist Newbry and Roach).

Brief History:

Committee Activity: Government Operations, Tribal Relations & Elections: 2/03/11, 2/15/11 [DPS]; 1/16/12, 1/19/12 [DP2S].
Passed Senate: 2/08/12, 46-0.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS, TRIBAL RELATIONS & ELECTIONS

Majority Report: That Second Substitute Senate Bill No. 5292 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Pridemore, Chair; Benton, Chase and Nelson.

Staff: Karen Epps (786-7424)

Background: 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 planning requirements for counties and cities obligated by mandate or choice to fully plan under the GMA (planning jurisdictions), and a reduced number of directives for all other counties and cities. Twenty-nine of Washington's 39 counties, and the cities within those counties, are planning jurisdictions.

The GMA directs planning jurisdictions to adopt internally consistent comprehensive land use plans that are generalized, coordinated land use policy statements of the governing body. Comprehensive plans must address specified planning elements, each of which is a subset of a comprehensive plan. The implementation of comprehensive plans occurs through locally adopted development regulations.

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.

All jurisdictions are required by the GMA to satisfy specific designation mandates for natural resource lands and critical areas. All local governments must adopt development regulations, also known as critical areas ordinances, that meet specified criteria. As defined by statute, critical areas include wetlands, aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas.

Summary of Engrossed Second Substitute Bill: Within the definition of critical areas, fish and wildlife habitat conservation areas do not include artificial features or constructs, including irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

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 as Heard in Committee: PRO: This substitute is the result of discussions last session. Consensus was reached right before cut-off, but the bill was not heard on the Senate floor. This bill provides some clarification in the development of critical areas ordinances that the drainage side of irrigation districts are not natural streams and should be excluded from designation as critical areas. They are not fish and wildlife habitat, they are irrigation conveyances. Ports have artificial facilities that they maintain as part of port activities and they need the same type of clarification.

OTHER: There is some concern that there are five types of critical areas described in the definition and, in interpreting this bill, the suggested change from critical areas to fish and wildlife habitat conservation areas will provide additional clarification.

Persons Testifying: PRO: Mike Schwisow, WA State Water Resources Assn.; Jason Jordan, Port of Tacoma; M.C. Halvorsen, Citizen.

OTHER: Tom Clingman, DOE.