

SENATE BILL REPORT

SB 5451

As Reported by Senate Committee On:
Natural Resources & Marine Waters, February 21, 2011

Title: An act relating to shoreline structures in a master program adopted under the shoreline management act.

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

Sponsors: Senators Ranker, Ericksen, Pridemore, Harper, Carrell, Hobbs, Rockefeller, Tom, White and Shin.

Brief History:

Committee Activity: Natural Resources & Marine Waters: 2/16/11, 2/21/11 [DPS].

SENATE COMMITTEE ON NATURAL RESOURCES & MARINE WATERS

Majority Report: That Substitute Senate Bill No. 5451 be substituted therefor, and the substitute bill do pass.

Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton, Ranking Minority Member; Fraser, Hargrove, Stevens and Swecker.

Staff: Sherry McNamara (786-7402)

Background: The Shoreline Management Act (SMA) governs uses of state shorelines. The Department of Ecology (DOE) and local governments are authorized to adopt necessary and appropriate rules for implementing the provisions of SMA.

At the local level, the SMA regulations are developed in local shoreline master programs. All counties and cities with shorelines of the state are required to adopt master programs that regulate land use activities.

Counties and cities are also required to enforce master programs within their jurisdiction. Local master programs have certain mandatory elements as appropriate, and local governments may include other elements necessary to implement the SMA requirements. Mandatory elements include:

- an economic development element for locating and designing water-dependent industrial projects and other commercial activities;

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- a public access element to provide for public access to public areas;
- a recreational element to preserve and enhance shoreline recreational opportunities;
- a circulation element to locate transportation and other public facilities for shoreline use;
- a use element addressing the location and extent of shoreline use for housing, business, industry, transportation, agriculture, natural resources, recreation, education, public facilities, and other uses;
- a conservation element to preserve natural resources in shoreline areas;
- a historic, cultural, scientific, and educational element to protect buildings, sites, and areas with such values; and
- an element considering statewide interests in preventing and minimizing flood damage.

A master program becomes effective when approved by DOE.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Recommended Substitute): The act allows DOE approved new or amended master programs to include:

- principal residential structures that were legally established but do not meet current standards for setbacks, buffers, or yards; area; bulk; height; or density to be considered a conforming structure in the master program; and
- redevelopment, expansion, change within the class of occupancy, or replacement of a structure which must be consistent with the master program including no net loss of shoreline ecological functions.

The section does not:

- restrict the ability of a master program to limit redevelopment, expansion, or replacement of over-water structures or structures located in hazardous areas;
- affect application of other codes to these structures.

EFFECT OF CHANGES MADE BY NATURAL RESOURCES & MARINE WATERS COMMITTEE (Recommended Substitute as Passed Committee): Changes the word "use" to "structure" to clarify that residential structures that were legally established and are used for a conforming use but that do not meet current standards may be considered a conforming structure in the master program.

Appropriation: None.

Fiscal Note: Requested on February 15, 2011.

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 Proposed Substitute as Heard in Committee:

PRO: Currently, if a shoreline buffer changes, under the local master program your residential structure could be considered nonconforming. This bill gets rid of the term

nonconforming use as it applies to residential structures. With local master program updates happening in communities, the overriding issue being discussed is nonconforming use and what it means to homeowners. The expressed concerns about the label of nonconforming use have been about the ability for homeowners to acquire insurance and mortgages, as well as sell their homes. This term should be extinguished. The bill removes the stigma of nonconforming use which will alleviate the concerns for homeowners, and it will improve the ability to update the master programs.

Persons Testifying: PRO: Senator Ranker, prime sponsor; Tom Clingman, DOE; Bill Clarke, Washington Realtors; Chris McCabe, Association of Washington Business; April Putney, Futurewise; Bruce Wishart, People for Puget Sound.