

SENATE BILL REPORT

SB 6170

As Reported by Senate Committee On:
Energy, Natural Resources & Marine Waters, February 2, 2012

Title: An act relating to the working waterfront redevelopment jobs act.

Brief Description: Establishing the working waterfront redevelopment jobs act.

Sponsors: Senators Ranker, Hargrove, King, Hatfield, Harper, Shin and Conway.

Brief History:

Committee Activity: Energy, Natural Resources & Marine Waters: 1/18/12, 2/02/12 [DPS].

SENATE COMMITTEE ON ENERGY, NATURAL RESOURCES & MARINE WATERS

Majority Report: That Substitute Senate Bill No. 6170 be substituted therefor, and the substitute bill do pass.

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

Staff: Curt Gavigan (786-7437)

Background: Hydraulic Project Approval (HPA). HPA is required for any project that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters in the state. HPAs are issued by the Department of Fish and Wildlife (DFW) to ensure the protection of fish life.

Shoreline Management Act (SMA). SMA requires the development of local shoreline master programs (master programs), which must be consistent with guidelines adopted by the Department of Ecology (DOE). Each local government must establish a program for the administration and enforcement of a shoreline permit system. Property owners or developers must generally obtain a substantial development permit for qualifying developments within shoreline areas. Substantial developments are defined to include both developments with total cost or fair market value exceeding \$5,000 – as adjusted for inflation – and developments materially interfering with normal public shoreline use.

Fish Habitat Enhancement Projects (FHEP). Under current law, a project qualifying as FHEP receives streamlined State Environmental Policy Act review and local permitting. FHEP

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must receive approval through a specified entity, such as through sponsorship by DFW or a conservation district. Additionally, FHEP must be a project to:

- eliminate human-made fish passage barriers;
- restore an eroded or unstable stream bank using bioengineering; or
- place woody debris or other structures that benefit natural reproducing fish stocks.

Storm Water Permitting. The federal Clean Water Act (CWA) establishes the National Pollutant Discharge Elimination System (NPDES) permit system to regulate wastewater and storm water discharges from point sources to surface waters. The United States Environmental Protection Agency delegates federal CWA authority to DOE. DOE issues the Industrial Storm Water General Permit to implement both state and federal regulations that require industrial facilities to control storm water. Permittees must have a Storm Water Pollution Prevention Plan (SWPPP) that utilizes best management practices to prevent water pollution.

Summary of Bill (Recommended Substitute): Establishes Streamlined Review for a Marine Areas Redevelopment and Restoration Project (MARRP). To qualify as MARRP, a project must:

- be located adjacent to or include marine shorelines with commercial and industrial uses allowed under a master program;
- generate at least ten jobs on an ongoing basis;
- involve the redevelopment and reuse of degraded shorelines in a manner that will lead to a net contribution to shoreline ecological functions;
- provide for the protection of fish life, including meeting the substantive fish protection requirements of chapter 77.55 RCW; and
- be consistent with the local shoreline master program and any applicable development regulations.

DFW must hold a public comment period on a MARRP application, as well as coordinate with state agencies and local governments with expertise relevant to the project. DFW must then approve, condition, or deny a MARRP permit within 45 days of the completion of the comment period. MARRP permitting decisions by DFW are subject to appeal through the Pollution Control Hearings Board. A project proponent whose MARRP application is denied or deemed inappropriate for MARRP review may apply for any required permits through the standard processes.

A project meeting MARRP criteria is exempt from a substantial development permit, permits or approvals under the Growth Management Act, and HPA permits. Additionally, the Department of Natural Resources must prioritize the processing of requests for aquatic use that meet MARRP requirements.

Establishes a Substantial Development Permit Exemption for Certain Storm Water Projects. A person is exempt from a substantial development permit if they are implementing best management practices in accordance with SWPPP. However, compliance with the substantive requirements of SMA is required.

EFFECT OF CHANGES MADE BY ENERGY, NATURAL RESOURCES & MARINE WATERS COMMITTEE (Recommended Substitute): The recommended substitute:

- Reduces the jobs creation requirement to qualify for the permitting process from 50 construction jobs and ten jobs ongoing, to just ten jobs ongoing;
- Specifies that a project must meet the substantive fish protection requirements of chapter 77.55 RCW;
- In addition to the goals and objectives of a local shoreline mast program, specifies that a project must be accomplished consistent with any applicable development regulations;
- Specifies that the exemptions related to GMA are for permits under the authority of that law;
- Provides additional language regarding DFW's providing notice to and coordination with agencies and local governments with expertise relevant to a proposed project;
- Includes a reporting requirement in 2014; and
- Makes technical changes.

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: There is broad support to create jobs while restoring the state's shorelines. The business community and public ports appreciate the thoughtfulness of the approach to help the economy in a sustainable manner. Stakeholders will continue to discuss ways to improve the process created in the bill, and suggest continued discussion around issues such as potentially allowing broader project qualification, changing the permitting process, and further specifying environmental standards that must be met.

Persons Testifying: PRO: Jeff Davis, DFW; Johan Hellman, WA Public Ports Assn.; Bruce Wishart, People for Puget Sound; Brandon Housekeeper, Assn. of WA Businesses.