

SENATE BILL REPORT

SB 6188

As Reported by Senate Committee On:
Energy, Natural Resources & Marine Waters, January 30, 2012

Title: An act relating to clarifying procedures for appealing the adoption of a local shoreline master program by ensuring consistency with existing procedural provisions of the growth management act, chapter 36.70A RCW, the administrative procedure act, chapter 34.05 RCW, and the state environmental policy act, chapter 43.21C RCW

Brief Description: Clarifying procedures for appealing the adoption of a local shoreline master program by ensuring consistency with existing procedural provisions of the growth management act, chapter 36.70A RCW, the administrative procedure act, chapter 34.05 RCW, and the state environmental policy act, chapter 43.21C RCW.

Sponsors: Senators Ranker, Morton, Chase, Swecker, Shin and Kline; by request of Department of Ecology.

Brief History:

Committee Activity: Energy, Natural Resources & Marine Waters: 1/25/12, 1/30/12 [DPS].

SENATE COMMITTEE ON ENERGY, NATURAL RESOURCES & MARINE WATERS

Majority Report: That Substitute Senate Bill No. 6188 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: Angeline Thomas (786-7470)

Background: Shoreline Management Act (SMA). The SMA provides for the management of development along the state shorelines. Local government has the primary responsibility for initiating the planning required by the SMA and administering the regulatory program consistent with the policy and provisions of the Act. These locally tailored plans are called shoreline master programs and are used to guide future shoreline development.

The Department of Ecology (DOE) acts primarily in a supportive and review capacity with an emphasis on providing assistance to local government and on insuring compliance with the policy and provisions of the SMA.

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.

Master programs must be consistent with guidelines adopted by the DOE. The DOE has the authority to approve or reject a master program, as well as approve or reject individual segments of or amendments to it. A master program is not effective until approved by the DOE.

A decision by the DOE to approve or reject a master program may be appealed to either the Growth Management Hearings Board (GMHB) or the Shorelines Hearings Board (SHB), depending on the jurisdiction. For jurisdictions fully planning under the Growth Management Act, decisions are appealed to the GMHB. For other jurisdictions, decisions are appealed to the SHB.

If a city or county fails to adopt a master program in accordance with the time schedule under the SMA, or the DOE does not approve a segment of a master program relating to a shoreline of statewide significance, the DOE may develop and adopt an alternative master program within the applicable jurisdiction. Shorelines of statewide significance are delineated under the SMA.

State Environmental Policy Act (SEPA). The SEPA provides a way to identify possible environmental impacts that may result from governmental decisions and applies to decisions by every state and local agency within Washington. These decisions may be related to issuing permits for private projects, constructing public facilities, or adopting regulations, policies or plans.

Information provided during the SEPA review process helps agency decision-makers, applicants, and the public understand how a proposal will affect the environment. This information can be used to change a proposal to reduce likely impacts, or to condition or deny a proposal when adverse environmental impacts are identified.

Summary of Bill (Recommended Substitute): Circumstances When the Administrative Procedure Act (APA) Applies Are Clarified. The DOE's decision to adopt an alternative master program or amendment "by rule" may be directly appealed to superior court in accordance with the APA.

SEPA Issues Related to Shoreline Master Programs Are Appealable to Either the GMHB or the SHB. In appeals involving shorelines of statewide significance, both the GMHB and SHB are required to review whether the master program is compliant with the policy of the SEPA as it relates to the adoption of master programs and amendments.

Technical Changes Are Made. All references to the term inconsistent are changed to noncompliant. Additionally, existing language referencing aggrieved local government and local government is updated to appellant or party respectively.

When a Master Program Amendment Becomes Effective is Clarified. A master program amendment becomes effective after approval by the DOE or after the decision of either the GMHB or the SHB as long as either board may remand the master program or master program amendment to the local government or to the DOE for modification prior to final adoption.

EFFECT OF CHANGES MADE BY ENERGY, NATURAL RESOURCES & MARINE WATERS COMMITTEE (Recommended Substitute): Makes a technical change to the title clarifying that the bill applies to a DOE final action on a local shoreline master program rather than DOE adoption of a local shoreline master program.

Appropriation: None.

Fiscal Note: Not requested.

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 intended to clean up confusing sections of the code. It clarifies procedures for appeal and ensures consistency.

Persons Testifying: PRO: Tom Clingman, DOE; April, Putney, Futurewise; Steve Robinson, Tulalip and Umatilla Tribes.