
Environment Committee

HB 2090

Brief Description: Establishing categorical exemptions in the state environmental policy act for development proposals that are consistent with locally adopted land use and shoreline regulations.

Sponsors: Representatives Taylor, Shea, Overstreet, Pike, Scott, Schmick, Haler, Chandler, Holy, Buys, Manweller and Short.

Brief Summary of Bill

- Creates a categorical exemption from the State Environmental Policy Act (SEPA) review requirements for development proposals in counties and cities that have adopted comprehensive Growth Management Act (GMA) plans that have undergone SEPA review, if the development proposal is consistent with the GMA comprehensive plan.
- Creates a categorical exemption from the SEPA review requirements for development proposals in counties and cities that have adopted shoreline master programs that have undergone the SEPA review, if the development proposal is consistent with the shoreline master program.

Hearing Date: 2/4/14

Staff: Jacob Lipson (786-7196).

Background:

The Shoreline Management Act of 1971 (SMA) governs uses of state shorelines. The SMA involves a cooperative regulatory approach between local governments and the state. At the local level, the SMA regulations are developed in city and county shoreline master programs (master programs) that regulate land use activities in shoreline areas of the state. Master programs must be consistent with guidelines adopted by the Department of Ecology (DOE). Local programs, and segments of or amendments to programs, become effective when approved by the DOE.

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.

The GMA is the comprehensive land use planning framework for counties and cities in Washington. The GMA establishes land use designation and environmental protection requirements for all Washington counties and cities, and a significantly wider array of planning duties for the 29 counties and the cities within that are obligated by mandate or choice to satisfy all planning requirements of the GMA. The GMA directs jurisdictions that fully plan under the GMA to adopt internally consistent comprehensive land use plans that are generalized, coordinated land use policy statements of the governing body. Comprehensive plans, which are the frameworks of county and city planning actions, are implemented through locally-adopted development regulations.

The State Environmental Policy Act establishes a review process for state and local governments to identify environmental impacts that may result from governmental decisions, such as the issuance of permits or the adoption of land use plans. Except for development projects that are exempt from SEPA requirements, the SEPA generally requires a project applicant to submit an environmental checklist. The checklist includes questions about the potential impacts of the project on the built environment and the natural environment. Generally, an environmental impact statement must be prepared for a proposal which the lead agency determines will have a probable significant, adverse impact on the environment.

Statute and SEPA rules contain categorical exemptions for certain actions, such as small residential construction developments, that are not major actions significantly affecting the quality of the environment. Categorically exempt actions do not require the submission of a checklist or the development of an environmental impact statement.

Currently, certain activities subject to GMA and SMA regulations are exempt from some aspects of the SEPA review processes. Areas of overlap and integration between the SMA, the GMA, and the SEPA include:

1. Cities and counties which have adopted a GMA comprehensive plan may deem, after review of the SEPA environmental checklist for a proposed action, that the GMA plan adequately provides analysis and mitigation of environmental impacts, and may allow the proposed action to proceed without additional review.
2. City and county development regulation amendments that are required for consistency with GMA comprehensive plans or SMA shoreline master programs are categorically exempt from the submission of a SEPA checklist or additional environmental analysis.
3. Certain development proposals in areas designated by ordinance as critical areas under GMA planning regulations are also exempt from certain additional SEPA review if consistent with authorized activities under the ordinance.
4. Certain project proposals are exempt from SEPA review if they qualify as planned actions under ordinances adopted by a city or county planning under the GMA, or if they qualify as infill residential or mixed-use developments in designated urban growth areas with lower densities than target levels in the GMA comprehensive plans.

In 2012 the Legislature directed the DOE to update the categorical exemptions to SEPA in a two phase rule-making process that was originally scheduled to conclude by December 31, 2013. Among the updates to the SEPA review processes that the 2012 Legislature directed the Department of Ecology to consider in rulemaking are updates to SEPA categorical exemptions to further integrate the SEPA review with GMA planning.

Summary of Bill:

Development proposals that are consistent with the GMA plan and development regulations in cities and counties planning under the GMA are made categorically exempt from the SEPA review requirements. This categorical exemption only applies to development proposals in a city or county whose GMA comprehensive plan was previously subject to a SEPA review which produced an environmental impact statement.

Development proposals that are consistent with shoreline master programs are also made categorically exempt from the SEPA. This categorical exemption only applies to development proposals in a city or county whose shoreline master program was previously subject to a SEPA review which produced an environmental impact statement.

An intent section declares that the SEPA project review processes must be used to make individual project decisions, rather than serve as a substitute for land use planning decisions. The intent section also states that proposed projects should not be subject to duplicative review under both the SEPA and other applicable environmental laws.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.