

HOUSE BILL REPORT

HB 2581

As Reported by House Committee On:
Environment

Title: An act relating to on-water dwellings.

Brief Description: Regarding on-water dwellings.

Sponsors: Representatives Tarleton, S. Hunt, Pollet and Carlyle.

Brief History:

Committee Activity:

Environment: 1/28/14, 2/5/14 [DPS].

Brief Summary of Substitute Bill

- Requires certain floating on-water residencies permitted or legally established prior to July 1, 2014, to be classified as a conforming use in a local government's shoreline regulations.

HOUSE COMMITTEE ON ENVIRONMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Fitzgibbon, Chair; Senn, Vice Chair; Short, Ranking Minority Member; Fey, Harris, Kagi, Nealey, Ortiz-Self and Tharinger.

Minority Report: Do not pass. Signed by 3 members: Representatives Pike, Assistant Ranking Minority Member; Morris and Overstreet.

Staff: Jason Callahan (786-7117).

Background:

The Shoreline Management Act (SMA) governs uses of state shorelines. The SMA enunciates state policy to provide for shoreline management by planning for and fostering "all reasonable and appropriate uses." The SMA prioritizes public shoreline access and enjoyment and creates preference criteria in a prioritized order that must be used by state and local governments in regulating shoreline uses. Preferred shoreline uses, as specified in the

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SMA, are those which are consistent with the control of pollution and the prevention of damage to the natural environment, and those which are unique to or dependent upon use of the state's shoreline.

The SMA involves a cooperative regulatory approach between local governments and the state. At the local level, SMA regulations are developed in local shoreline master programs (master programs). All counties and cities with shorelines of the state are required to adopt and enforce master programs that regulate land use activities within their jurisdictions. Master programs must be consistent with guidelines adopted by the Department of Ecology (DOE), and the programs and segments of or amendments to the programs become effective when approved by the DOE.

The SMA provides that all fully permitted and legally established floating homes must be considered as an allowed use under any local shoreline regulations if the home was lawfully in place prior to the start of 2011. This means that any single family dwelling unit that is constructed on a float, anchored, or otherwise secured in water is not subject to any local conditions or regulations on the home's use. This includes local regulations that preclude maintenance, repair, replacement, and remodeling of floating homes, and applies to floating homes even if they are capable of being towed.

Summary of Substitute Bill:

Floating on-water residencies must be classified as a conforming use in a local government's shoreline regulations. The term "floating on-water residencies" is defined to capture any floating structure, other than a floating home, that is designed or used primarily as a residence, has detachable utilities, and is the subject of a lease or sublease at a marina as of July 1, 2014.

Floating on-water residencies are not subject to any unreasonable local conditions or regulations on the home's use, including regulations that preclude maintenance, repair, replacement, and remodeling of the floating on-water residencies.

Substitute Bill Compared to Original Bill:

The original bill statutorily listed floating homes and floating on-water residencies as water-dependent uses of state-owned aquatic lands, provided a broader definition to the term "floating on-water residencies," and required local ordinances to consider a floating on-water residence to be a preferred use of the shoreline.

Appropriation: None.

Fiscal Note: Not requested.

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

Staff Summary of Public Testimony:

(In support) Everybody cannot be expected to live the same way. People have lived on the waters of the Northwest for centuries, and those who live that way now should be allowed to continue without encouraging more to do the same.

The state owes local governments and the people who choose to live on the water consistency in how it defines various structures, vessels, and other residences that float. There are many different kinds of floating residences and many of them face different regulatory schemes. Washington registers boats simultaneously as houseboats and pleasure crafts. The state itself recognizes that a pleasure craft can be a residence, but many cities do not agree.

The Department of Natural Resources has declared houseboats to be illegal in harbor areas. Houseboats are boats and marinas that support commerce is exactly where they belong. They are not a threat to commerce; they are commerce. They are also vessels that meet all of the environmental standards of vessels.

There is no science that shows gray water from a floating residence is an environmental problem or that pollution from a vessel that is used as a residence is any different from a vessel that is not used as a residence. Living on the water is a unique way of life with a small ecological footprint. The new regulations proposed for on-water residency offer no additional environmental protections.

People have entire life savings invested into on-water residencies and they need security in their homes. Being forced to move a home would mean leaving the state, losing one's job, and being separated from family. These people are facing evictions and homelessness. Houseboats have been built and maintained consistent with all rules and regulations and are now having those rules changed out from under them.

Communities of on-water dwellings add value to local areas and local economies. They can serve as the heart of a vibrant downtown. On-water residences are the first line of defense for security in marinas. They are an asset, not a problem. This is not a local issue as people live on waters and shorelines all over the state.

(In support with amendment(s)) Real vessels, as opposed to floating homes, should not be drawn into the controversy. Vessels come and go, often for months and years at a time. Setting a firm date by which existing uses will be allowed is disadvantageous to a vessel that is at sea when the date is set.

(In support with concerns) Most marinas enjoy the structure provided with the leasing rules of the DNR that provide clarity and predictability in on-water residency. This is not the case on Lake Union. Since the issue is Lake Union-specific, the solution should be found in Seattle, not Olympia. Bills targeted to address one problem in one area have the potential of creating unintended consequences in other communities where local solutions are already

working. The City of Seattle is already working on rules that would allow existing residences to remain.

Defining a floating object that doesn't have steering or propulsion as a vessel illogically breaks the connection between a transportation device and a structure. Defining residency as a water-dependent use opens the door to a lot of other uses that are currently limited to uplands and has the potential to create significant long-term impacts on aquatic land management.

(Opposed) Existing floating homes were grandparented into legal compliance in 2011. That was the right thing to do for those homes at that time; however, no new residential uses should be allowed. Vessels are not houseboats in structure or function, and saying that they are encourages more of them. It is a significant precedent for the Legislature to declare residency to be a water-dependent use and it would open up the floodgates of people looking to live on the water. More residential use of the water will result in less moorage space for true vessels that are used and that move.

More homes on the water means more pollution. Residential uses can damage near shore eel grass, which is a keystone species critical to the health of the Puget Sound. Homes pollute more than recreational vessels. They do more laundry onboard, shower more, use dishwashers, and pressure wash over the water. Use and structure should not be confused.

Persons Testifying: (In support) Representative Tarleton, prime sponsor; Mauri Shuler, John Geisheker, Mike Moode, Barbara Engram, Patsy Kylo, Kevin Bagley, John Chaney, and Langdon Miller, Lake Union Liveaboard Association; Ginny Stern, Keith Rosemu, and Heather Dean, Olympia Liveaboard Association; Gail Luhn, Shilshole Liveaboard Association; Lynn Reister, Lake Union Liveaboard Association and Accredited Maring Surveyor; Allen Miller, Martin Marina; Holly Luedke, Lake Union Liveaboard Association and Golden West Property Management; and Nick Federici, Seattle Floating Homes Association.

(In support with amendment(s)) Doug Levy and John Sipkens, Recreational Boating Association of Washington; and Alan Engstrom.

(In support with concerns) Scott Plusquellec, City of Seattle.

(Opposed) Tom Clingman, Department of Ecology; Kristen Swenddal and Megan Duffy, Department of Natural Resources; Naki Stevens, Sound Action; and Susan Neff.

Persons Signed In To Testify But Not Testifying: None.