

# SENATE BILL REPORT

## SB 6168

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As of January 22, 2016

**Title:** An act relating to removing drainage ditches from the definition of fish and wildlife habitat conservation areas in chapter 36.70A RCW.

**Brief Description:** Removing drainage ditches from the definition of fish and wildlife habitat conservation areas in chapter 36.70A RCW.

**Sponsors:** Senators Angel, Becker, Warnick and Benton.

**Brief History:**

**Committee Activity:** Government Operations & Security: 1/19/16.

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### SENATE COMMITTEE ON GOVERNMENT OPERATIONS & SECURITY

**Staff:** Karen Epps (786-7424)

**Background:** The Growth Management Act (GMA) is the comprehensive land use planning framework for county and city governments in Washington. Enacted in 1990 and 1991, the GMA establishes numerous planning requirements for planning jurisdictions - counties and cities obligated by mandate or choice to fully plan under the GMA - and a reduced number of directives for all other counties and cities.

The GMA directs planning jurisdictions to adopt internally consistent comprehensive land use plans that are generalized, coordinated land use policy statements of the governing body. Comprehensive plans must address specified planning elements, each of which is a subset of a comprehensive plan. The implementation of comprehensive plans occurs through locally adopted development regulations.

The GMA requires all jurisdictions to satisfy specific designation mandates for natural resource lands and critical areas. All local governments must adopt development regulations, also known as critical areas ordinances, that meet specified criteria. As defined by statute, critical areas include wetlands, aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas. Fish and wildlife habitat conservation areas do not include artificial features or constructs, including irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

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*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.*

**Summary of Bill:** Within the definition of critical areas, fish and wildlife habitat conservation areas do not include artificial features or constructs, including irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches, rather than those that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

**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:** PRO: This bill is needed because there was a salmonid in a ditch that is not being maintained and it put a needed road project on hold. Without completing this road project, there may end up being a moratorium on commercial expansion in that area. The ditch in question is a couple of miles long and is manmade. There are ways to differentiate between a manmade ditch and a constructed stream. Natural streams that have been modified are still considered natural streams under this bill. People plant salmon in ditches. It is possible to look at historic photos to see whether a waterway was natural or was constructed. There needs to be clarification in the GMA around what is a ditch and what is a stream.

CON: There is concern about this bill because of what might be considered an artificial construct or feature. There is concern that in many cases natural waterways that have been heavily modified might be considered an artificial construct under this bill. In those cases, even though it has been heavily modified, it still provides ecological functions and there are fish that use the water feature. This bill will allow water bodies that have lost natural features to be exempt under this language. This bill is too broad and needs more specifics. This bill would solve one specific problem but also open up more problems. Some of these ditches were natural waterways that were modified to the point that they would fall under this bill. There may be a way to narrow this bill to address specific situations.

**Persons Testifying:** PRO: Senator Angel, prime sponsor; AJ Bredberg, B & A Inc.

CON: Bryce Yadon, Futurewise; Bruce Wishart, Sound Action, Puget Soundkeeper.

Persons Signed In To Testify But Not Testifying: No one.