

HOUSE BILL REPORT

HB 1031

As Reported by House Committee On: Environment & Energy

Title: An act relating to reducing government imposed obligations associated with bulkhead maintenance or repairs.

Brief Description: Reducing government imposed obligations associated with bulkhead maintenance or repairs.

Sponsors: Representatives Walsh, Irwin and Young.

Brief History:

Committee Activity:

Environment & Energy: 2/14/19, 2/21/19 [DPS].

Brief Summary of Substitute Bill

- Exempts the minor repair or maintenance of existing bulkheads or bank protection structures from the State Environmental Policy Act.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Fitzgibbon, Chair; Lekanoff, Vice Chair; Shea, Ranking Minority Member; Dye, Assistant Ranking Minority Member; Boehnke, Fey, Mead, Peterson and Shewmake.

Minority Report: Without recommendation. Signed by 1 member: Representative Doglio.

Staff: Jacob Lipson (786-7196).

Background:

The State Environmental Policy Act (SEPA) 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. The SEPA environmental review process involves a project proponent or the lead agency completing an environmental

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checklist to identify and evaluate probable environmental impacts. If an initial review of the checklist and supporting documents results in a determination that the government decision has a probable significant adverse environmental impact (threshold determination), the proposal must undergo a more comprehensive environmental analysis in the form of an Environmental Impact Statement (EIS).

Under SEPA, a government agency is designated as the lead agency, and in that role is assigned responsibility for complying with SEPA's procedural requirements, including making a threshold determination and preparing the EIS when one is required.

Under SEPA laws and in SEPA rules adopted by the Department of Ecology, certain projects or activities are exempt from SEPA requirements. The State Environmental Policy Act rules exempt the repair, remodeling, maintenance or minor alteration of existing structures, facilities, or equipment and, on lands covered wholly or partly by water, may exempt the minor repair or replacement of structures including docks, ramps, pilings, and floats.

Construction activities related to bulkheads or bank protection structures may be subject to various state environmental regulations and may require environmental permits such as shoreline substantial development permits issued under the Shoreline Management Act and Hydraulic Project Approvals (HPA) issued by the Washington Department of Fish and Wildlife.

Summary of Substitute Bill:

The minor repair or maintenance of existing bulkheads or bank protection structures is exempt from State Environmental Policy Act requirements. Minor repair or maintenance means repair or maintenance that does not involve excavation or waterward expansion of the footprint of an existing bulkhead or bank protection structure.

Substitute Bill Compared to Original Bill:

The substitute bill amends the exemption from the State Environmental Policy Act (SEPA) for the repair or maintenance of bulkheads or bank protection structures so that:

- the exemption applies only to the minor repair or maintenance of existing bulkheads or bank protection structures that does not involve excavation or waterward expansion of the existing footprint; and
- such repair or maintenance projects are entirely exempt from SEPA, rather than exempting projects only from the requirement that an Environmental Impact Statement be completed for projects with significant adverse environmental impacts.

Appropriation: None.

Fiscal Note: Available.

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) Property owners need bulkheads in place to prevent erosion of their property. Bulkheads periodically need to be repaired and replaced. The permitting process is confusing, expensive, and complicated, and the local governments responsible for permitting projects provide conflicting advice as to whether State Environmental Policy Act (SEPA) reviews are needed. When regulations are unnecessary and too complicated for the public to understand, many people will simply ignore the regulations and complete their projects.

(Opposed) The bill provides a SEPA exemption, but does not exempt bulkhead repairs from other permitting requirements. A categorical exemption of bulkhead repair is not supported by the environmental community. Complying with SEPA requirements involves simply filling out a checklist and is not a hardship for bulkhead owners. The SEPA process leads to the conditioning of permits in ways that improve environmental protections.

(Other) In 2012 the Legislature directed the Department of Ecology to evaluate the appropriateness of updating SEPA rules to exempt minor repair projects. At that time, there was not consensus among stakeholders to exempt minor bulkhead repair projects. It would be more appropriate to exempt only bulkhead projects where work is being done above the waterline, rather than all bulkhead projects.

Persons Testifying: (In support) Representative Walsh, prime sponsor; and John Clark, Tapps Island Association.

(Opposed) Bruce Wishart, Sound Action.

(Other) Tim Gates, Department of Ecology.

Persons Signed In To Testify But Not Testifying: None.