
Environment & Energy Committee

HB 1233

Brief Description: Concerning the use of science pursuant to the growth management act.

Sponsors: Representatives Griffey, MacEwen, Eslick, Irwin and Dent.

Brief Summary of Bill

- Directs cities and counties to consider available science in developing policies and regulations to protect designated environmentally critical areas under the Growth Management Act, and eliminates the requirement that cities and counties include best available science in developing such policies and regulations.

Hearing Date: 1/31/19

Staff: Jacob Lipson (786-7196).

Background:

The Growth Management Act (GMA) provides that all counties and cities are obligated to designate and adopt policies and development regulations using best available science (BAS) to protect environmentally sensitive areas known as "critical areas". All cities and counties are required to review, evaluate, and, if necessary, revise their critical areas ordinances according to an updated schedule. As defined by statute, critical areas include:

- wetlands;
- aquifer recharge areas;
- fish and wildlife habitat conservation areas;
- frequently flooded areas; and
- geologically hazardous areas.

Cities and counties must give special consideration to conservation or protection measures that are necessary to preserve or enhance anadromous fisheries. As an alternative to protect critical areas through development regulations in areas used for agricultural activities, county legislative authorities can opt to protect such areas through the voluntary stewardship program.

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 Department of Commerce (COM) has adopted rules to help cities and counties assess what constitutes the BAS to use as the basis for critical area regulations. Under these rules, cities and counties may use information that local, state, or federal natural resource agencies have determined to meet BAS based on specified criteria. The rules establish that the responsibility for development and implementation of critical area ordinances rests with city and county legislative authorities, but that when feasible, cities and counties should consult with qualified scientific experts or teams of experts in identifying BAS. The COM makes a list of BAS as identified by state or federal natural resources agencies for critical areas publicly available.

The GMA includes enforcement and penalty provisions for public entities. A seven-member Growth Management Hearings Board (GMHB) established under the GMA is charged with hearing and determining petitions alleging noncompliance by state agencies, counties, or cities with the GMA and related statutory provisions. The GMHB must make findings of fact and prepare a written decision. Final decisions and orders of the GMHB may be appealed to superior court. Additionally, if all parties agree, the superior court may directly review a petition filed with the GHMB.

Summary of Bill:

Cities and counties designating environmentally critical areas must consider available science in developing policies and development regulations, rather than being required to include best available science (BAS). Expert opinion on a topic indicating that local officials did not adopt policies consistent with information in the record or presented in front of the Growth Management Hearings Board (GMHB) is not grounds for finding noncompliance with the Growth Management Act.

Legislative declarations are included, which state that elected officials have the authority to differ from what science and expert opinions in the public record may advocate, and that the GMHB does not have authority to overturn decisions by local elected officials to deviate from:

- state agency recommendations on BAS;
- documents presented as BAS; or
- other materials claiming to present science or scientifically modeled information.

Appropriation: None.

Fiscal Note: Requested on January 21, 2019.

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