

HOUSE BILL REPORT

2SSB 6027

As Reported by House Committee On:
Environment & Energy

Title: An act relating to floating residences.

Brief Description: Concerning floating residences.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Pedersen, Carlyle, Warnick, Van De Wege, Hunt, Rolfes, Short and Honeyford).

Brief History:

Committee Activity:

Environment & Energy: 2/25/20, 2/27/20 [DP].

Brief Summary of Second Substitute Bill

- Provides that a substantial development permit under the Shoreline Management Act (SMA) is not required when replacing or remodeling a floating on-water residence if the size of the existing residence is not materially exceeded.
- Modifies the definition of "water-dependent use" within the aquatics land statutes to include vessels or certain other floating structures, except floating homes.
- Modifies the examples of water-oriented uses within the aquatics land statutes to remove houseboats and to add floating homes as defined in the SMA.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

Majority Report: Do pass. Signed by 10 members: Representatives Fitzgibbon, Chair; DeBolt, Ranking Minority Member; Dye, Assistant Ranking Minority Member; Boehnke, Doglio, Fey, Goehner, Mead, Robinson and Shewmake.

Minority Report: Do not pass. Signed by 1 member: Representative Lekanoff, Vice Chair.

Staff: Robert Hatfield (786-7117).

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.

Background:

Shoreline Management Act.

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 SMA, are those that are consistent with the control of pollution and the prevention of damage to the natural environment and those that 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. All counties and cities with shorelines of the state are required to adopt and enforce shoreline master programs that regulate land-use activities within their jurisdictions.

Prior to undertaking any substantial development on state shorelines, the SMA requires a property owner or developer to first obtain a substantial development permit. A substantial development is any development with a total cost or fair market value exceeding \$5,000 in 2007 dollars, adjusted for inflation by the Office of Financial Management, or any development that materially interferes with normal public use of the water or shorelines of the state. Substantial development permits are reviewed by the local government and filed with the Department of Ecology.

Certain types of developments are not considered substantial developments under the SMA and are exempt from the requirement to obtain a substantial development permit. For example, aquatic noxious weed removal and normal maintenance or repair of existing structures are not considered substantial developments.

Shoreline Management Act—Floating Homes.

The SMA defines "floating home" to mean a single-family dwelling unit constructed on a float that is moored, anchored, or otherwise secured in waters and is not a vessel, even though it may be capable of being towed. The SMA provides that all fully permitted and legally established floating homes must be classified as a conforming preferred use if the home was lawfully in place prior to the start of 2011. This means that development and shoreline master program regulations may only impose reasonable conditions and mitigation that will not effectively preclude maintenance, repair, replacement, and remodeling of existing floating homes and floating home moorages by rendering these actions impracticable.

Shoreline Management Act—Floating On-water Residences.

The SMA defines "floating on-water residences" to mean any floating structure other than a floating home that is designed or used primarily as a residence on the water, has detachable utilities, and whose owner or primary occupant has held an ownership interest in space in a marina, or has held a lease or sublease to use space in a marina, since a date prior to July 1, 2014.

Floating on-water residences must be classified as a conforming use in a local government's shoreline regulations if they are legally established prior to July 1, 2014. Floating on-water residences must be accommodated through reasonable shoreline master program regulations, permit conditions, or mitigation that will not effectively preclude maintenance, repair, replacement, and remodeling of existing floating on-water residences and their moorages by rendering these actions impracticable.

State Management of Aquatic Lands.

Aquatic lands are generally managed by the state and protected for the common good. The Legislature has designated the Department of Natural Resources (DNR) as the manager of the more than 2.6 million acres of state-owned aquatic lands. In managing these lands, the DNR must support a balance of use demands and statutory goals, such as public use, environmental protections, trade, transportation, and revenue generation consistent with those goals. The DNR must also establish standards for determining equitable and predictable lease rates for users of state-owned aquatic lands.

The management of state-owned aquatic lands must preserve and enhance water-dependent uses, which are defined as uses that cannot logically exist except on water. Water-dependent uses must be favored over other uses in state-owned aquatic land planning and when resolving conflicts between competing lease applications.

Water-oriented uses are defined as uses that historically have been dependent on a waterfront location, but that with existing technology could be located away from the waterfront. Examples of water-oriented uses include watercraft sales, fish processing, and houseboats.

Summary of Bill:

A substantial development permit under the Shoreline Management Act (SMA) is not required when replacing or remodeling a floating on-water residence if the size of the existing residence is not materially exceeded. A substantial development permit is required if the replacement or remodel of a floating on-water residence materially exceeds the size of the existing residence. For the purposes of these provisions, the definition of "floating on-water residence" is modified to include vessels or any other floating structure, other than a floating home.

Within the aquatics land statutes, the definition of "water-dependent use" includes a vessel or any other floating structure, other than a floating home as defined in the SMA, that is designed or used primarily as a residence on the water, has detachable utilities, and whose owner or primary occupant has held an ownership interest in a marina, or has held a lease or sublease to use space in a marina, since a date prior to July 1, 2014.

Within the aquatics land statutes, the examples of water-oriented uses are modified to remove houseboats and to add floating homes as defined in the SMA.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) The category of floating on-water residences within the Shoreline Management Act was created through legislation six years ago. One city has taken the exceptional position that a vessel cannot be a floating on-water residence. The first part of the bill simply adds vessels to the definition of on-water residences. The second part of the bill reflects some other issues that have come up regarding rent increases for floating on-water residences. The Department of Natural Resources has been involved with developing the second part of the bill, which provides that a very narrow class of floating on-water residences qualify as water-dependent under the aquatic lands statutes. Something like 400 residences across the state would likely meet this definition.

The bill clarifies definitions among various types of liveaboard residences. Different legal requirements attach to each of those, so it is important to have clear definitions. The bill establishes clear guidelines for when a floating on-water residence can be remodeled. The bill does not do anything to increase the size of the fleet of floating on-water residences.

(Opposed) There is a concern about a significant omission in the bill. By legally designating these residences as vessels, it means that vessel discharge regulations will apply to them, which in turn means that they can discharge their grey water directly to the surface water. Grey water is the water that comes from sinks, bath tubs, and showers, and it contains a lot of toxins, heavy metals, and endocrine disruptors that harm marine life. Endocrine disruptors decrease reproductive capacity of salmon, particularly endangered chinook salmon, which is the primary feed source of the southern resident orcas. The Washington Department of Health has guidelines for grey water which provide that grey water is not supposed to be discharged near water bodies. If a house on shore discharged grey water to a water body, the public would be up in arms. Allowing these floating on-water residences to be designated as vessels, without dealing with the loophole that allows them to discharge their grey water to the surface water, puts chinook salmon and orcas at risk. That loophole should be closed so there is not a direct discharge of grey water into receiving waters.

Persons Testifying: (In support) Senator Pedersen, prime sponsor; Mauri Moore Shuler, Lake Union Liveaboard Association; and Barbara Baker.

(Opposed) Jonathan Frodge.

Persons Signed In To Testify But Not Testifying: None.