

SENATE BILL REPORT

SB 5885

As of January 27, 2022

Title: An act relating to marine shoreline habitat.

Brief Description: Concerning marine shoreline habitat.

Sponsors: Senators Salomon, Stanford, Hasegawa, Keiser, Lovelett, Nobles and Rolfes.

Brief History:

Committee Activity: Environment, Energy & Technology: 1/25/22 [w/oRec-AWNP].
Agriculture, Water, Natural Resources & Parks: 1/27/22.

Brief Summary of Bill

- Directs the Department of Ecology to conduct a baseline survey of Puget Sound marine shorelines including creating a comprehensive on-the-water view of the shoreline by January 1, 2023.
- Requires state and local permitting agencies to compare permit data with survey results to identify unpermitted development subject to potential enforcement action.
- Requires marine structure replacement projects in Puget Sound to meet the same design and technical standards as a new structure.

SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

Staff: Jeff Olsen (786-7428)

Background: Shoreline Management Program. The Shoreline Management Act (SMA) involves a cooperative regulatory approach between local governments and the state. The Department of Ecology (Ecology) and local governments are authorized to adopt necessary and appropriate rules for implementing the provisions of the SMA. At the local level, SMA

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regulations are developed in local shoreline master programs (master programs). All counties and cities with shorelines of the state are required to adopt master programs that regulate land-use activities in shoreline areas of the state.

Hydraulic Project Approval. A person must obtain a hydraulic project approval (HPA) prior to commencing any construction project that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state. Hydraulic project approvals are issued by the Department of Fish and Wildlife (WDFW) to ensure the proper protection of fish life. To receive an HPA, the applicant must provide certain information to the WDFW. This information includes general plans for the overall project and complete plans for the proper protection of fish life. The WDFW may impose proportionate conditions on a permit.

Summary of Bill: By January 1, 2023, Ecology must conduct a baseline survey of Puget Sound marine shorelines that renews oblique shoreline aerial imagery and incorporates the use of new technology to create a 360 degree on-the-water comprehensive view of the shoreline. The marine shoreline survey must be updated on a regular two-year cycle. The survey must document and map existing shoreline conditions, structures, and structure conditions, including structures in disrepair and structures that are derelict, and must be available to the public and incorporated into state geographic information system mapping.

Upon completion of regular surveys, state and local permitting agencies must compare permit data with survey results to identify unpermitted development subject to potential enforcement action.

If any person desires to replace a marine structure in the waters of Puget Sound, the marine replacement structure must meet the same design and technical standards as a new structure.

Appropriation: None.

Fiscal Note: Requested on January 21, 2022.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Protection of the nearshore environment is critical for the health of Puget Sound and there are gaps that need to be addressed. The first step is to establish a baseline to document the current conditions. By capturing a 360 degree on-the-water view, like Google street view for water, and making it publicly available, this will assist with habitat recovery efforts. Replacement structures must meet the same modern design standards as new projects. Shoreline armoring impacts the near shore, affecting forage fish, food supply, birds, and other species. Using shoreline imagery to document current conditions is a powerful tool that will be useful and should be digitally

preserved. In the San Juan islands, a review of shoreline armor projects revealed very few projects had received the proper permits. Critical habitat is being degraded, and it is important to regularly track what is occurring on the ground. There needs to be funding provided to the Department of Ecology and local governments to conduct a comprehensive assessment of the shoreline. Currently, the best monitoring data is permit data, but you cannot rely on permits only to understand impacts.

OTHER: Conducting a baseline survey is a good idea, including doing regular updates and sharing the maps and data. There are concerns that local code enforcement lacks sufficient resources to review that data. Local enforcement is underfunded and must compete with other critical local government services for funding. It is more likely that there will not be immediate action by local governments and a pilot project should be considered. Puget Sound should be recognized for its uniqueness. There are concerns about publishing information on public records for permits. There are a significant number of miles of shorelines, and there may be logistical challenges to implementing the timelines in the bill.

Persons Testifying: PRO: Senator Jesse Salomon, Prime Sponsor; Amy Carey, Sound Action; Scott Andrews, Audubon Washington; Brian Footen, Earthviews; Tina Whitman, Friends of the San Juans; Kollin Higgins, King County; Alex Smith, Department of Natural Resources.

OTHER: Paul Jewell, Washington State Association of Counties; Margen Carlson, WDFW; Tim Gates, WA Department of Ecology; Don Gourlie, Puget Sound Partnership.

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