

# SENATE BILL REPORT

## ESSB 5800

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As Passed Senate, March 5, 2009

**Title:** An act relating to shorelines of statewide significance.

**Brief Description:** Regarding shorelines of statewide significance.

**Sponsors:** Senate Committee on Government Operations & Elections (originally sponsored by Senators Fraser, Swecker, Fairley, Murray, Shin and Kline).

**Brief History:**

**Committee Activity:** Government Operations & Elections: 2/19/09, 2/23/09 [DPS, DNP].  
Passed Senate: 3/05/09, 36-10.

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### SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

**Majority Report:** That Substitute Senate Bill No. 5800 be substituted therefor, and the substitute bill do pass.

Signed by Senators Fairley, Chair; Oemig, Vice Chair; McDermott and Pridemore.

**Minority Report:** Do not pass.

Signed by Senator Roach, Ranking Minority Member.

**Staff:** Edward Redmond (786-7471)

**Background:** The Shoreline Management Act (SMA), enacted in 1971, 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 listed in prioritized order that must be used by state and local governments in regulating shoreline uses.

The SMA applies to all "shorelines of the state," which include both "shorelines" and "shorelines of state-wide significance." The SMA applies to all marine water areas of the state together with the lands underlying them from the western boundary of the state in the Pacific Ocean to streams with a mean annual flow of 20 cubic feet per second or more, lakes larger than 20 acres in area, and reservoirs. The Legislature has sole authority to designate and confirm additional shorelines as a shoreline of state-wide significance.

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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.*

The SMA involves a cooperative regulatory approach between the state and local governments. At the local level, SMA regulations are developed in local shoreline master programs (master programs). All counties and cities with shorelines are required to adopt master programs that regulate land use activities in shoreline areas of the state. Counties and cities are also required to enforce their master programs within their jurisdictions.

Master programs have certain mandatory elements including height limitations for building permits. State law provides that new or expanding building or structures over 35 feet are not permitted on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines. A limited exception is made where the building or structure does not interfere with such view.

Master programs for shorelines of state-wide significance must, in the following order, give preference to uses that (1) recognize and protect the statewide interest over local interest; (2) preserve the natural character of the shoreline; (3) result in long term over short term benefit; (4) protect the resources and ecology of the shoreline; (5) increase public access to publicly owned areas of the shorelines; (6) increases recreational opportunities for the public in the shoreline; and (7) provide for any other element defined in RCW 90.58.100 that is deemed appropriate or necessary.

The Department of Ecology (DOE) is the state agency responsible for regulating the SMA. Master programs must be consistent with guidelines adopted by the DOE. The master programs, and segments of or amendments to such, become effective when approved by the DOE. The Director of DOE may recommend to the Legislature areas of shoreline to be designated as a shoreline of state-wide significance.

**Summary of Engrossed Substitute Bill:** The Olympia Isthmus, located in the City of Olympia between Capitol Lake and Budd Inlet, is designated as a shoreline of statewide significance. The geographic area of the Olympia Isthmus is defined as follows: from the northwest extension of Capitol Waterway in Olympia to the Deschutes Spillway, and including the historic shoreline of Budd Inlet contained in Capitol Lake from the Deschutes Spillway to the southwest extension of Capitol Waterway.

A special height district is created on the Olympia Isthmus in the area adjacent to the historic Budd Inlet. The geographic area of the special height district is the same as the area to be designated a shoreline of state-wide significance. The maximum allowable height in this area is 35 feet, which only applies to new construction, remodeling, or restructuring that affects the height of the building.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony:** PRO: The Washington State Capitol Campus is one of the most beautiful in the country. It's physical setting, on the high bluff with spectacular views overlooking Capitol Lake, across the Isthmus, and up Puget Sound to the snowcapped Olympic Mountains, is unmatched in any other state. The capitol campus design has always been based on the Wilder and White vision. We have spent an immense amount of Washington taxpayer dollars to complete this process including \$2 million on the hillside, millions for Marathon Park, \$13 million for Heritage Park, and millions for Capitol Lake. The *Sato v. City of Olympia* decision should be codified into law. The Law Enforcement Memorial is located on the North side of the Temple of Justice and overlooks Capitol Lake and Budd Inlet. The view from the memorial contributes to the serenity, honor, and respect our fallen officers deserve. The new 90 feet height limit will create an impenetrable visual barrier that walls off the connection from the north capitol campus to Budd Inlet and Puget Sound. The bills before the committee will protect the vista for all the people of our state for generations to come.

CON: The city of Olympia carefully followed the public process laid out under the Growth Management Act to consider comprehensive plan amendments. The city heard hours of testimony over the rezone with over 170 people testifying. We received over 1,400 written comments, read market studies, and conducted a parks feasibility study. The deal for Heritage Park was that the state would invest money for the park and the city would maintain a view corridor through the fountain block to the water, not the entire Isthmus. The area not covered by a tax abatement has an assessed value of about \$16 million and pays about \$156,000 a year in property taxes. If the new condo development were added it would add \$150 million a year to our tax roles, approximately 2.5 percent of Olympia's assessed value. It would generate about \$1.5 million of property tax per year with over \$300,000 of that going to the state and \$600,000 going to our local school district.

**Persons Testifying:** PRO: Senator Fraser, prime sponsor; Ralph Munro, former Secretary of State; Allen Miller, Michael Hamm, Norman Johnston, citizens; Kit Ford, Behind the Badge; Jerry Reilly, Olympia Capital Park Foundation.

CON: Joan Machlis, Olympia City Council; David Schaffert, Thurston County Chamber; Connie Lorenz, Olympia Downtown Association; Steve Hall, city of Olympia; Sharon Foster, Maureen Morris, Enid Layes, Peter Stroble, citizens; Jackie Barrett Sharar, Olympia resident.