

HOUSE BILL REPORT

EHB 2469

As Passed Legislature

Title: An act relating to boatyard storm water treatment systems.

Brief Description: Regarding boatyard storm water treatment systems.

Sponsors: Representatives Upthegrove, Angel, Takko and Asay.

Brief History:

Committee Activity:

Local Government: 1/20/12 [DP].

Floor Activity:

Passed House: 2/8/12, 97-0.

Senate Amended.

Passed Senate: 2/29/12, 49-0.

Passed House: 3/3/12, 96-0.

Passed Legislature.

Brief Summary of Engrossed Bill

- Exempts certain remedial actions under the Model Toxics Control Act and qualifying storm water-based site improvements at an existing boatyard from provisions of the Shoreline Management Act requiring a substantial development permit, conditional use permit, or a variance.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass. Signed by 7 members: Representatives Takko, Chair; Fitzgibbon, Vice Chair; Angel, Ranking Minority Member; Asay, Assistant Ranking Minority Member; Smith, Springer and Tharinger.

Staff: Ethan Moreno (786-7386).

Background:

Shoreline Management Act.

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 Shoreline Management Act of 1971 (SMA) governs uses of state shorelines and involves a cooperative regulatory approach between local governments and the state. At the local level, the SMA regulations are developed in city and county shoreline master programs (master programs) that regulate land use activities in shoreline areas of the state. At the state level, the Department of Ecology (DOE) is charged with reviewing the locally-adopted master programs and approving those that comply with statutory provisions and agency guidelines governing their adoption.

Development may not be undertaken on shorelines of the state unless it is consistent with the SMA, applicable rules, and the pertinent master program. Persons seeking to undertake a substantial development on the shoreline generally must obtain a permit from the applicable local government prior to undertaking the development. While the SMA specifies standards for cities and counties to review and approve permit applications, the administration of the permit system is performed exclusively by the local government. Local governments, however, must notify the DOE of all SMA permit decisions, and permit requests for variances and conditional uses must be submitted to, and determined by, the DOE.

The SMA exempts certain remedial actions under the Model Toxics Control Act (MTCA) by the DOE and others from the procedural requirements of the SMA. The exemption requirements, however, obligate the DOE to ensure that the remedial actions comply with the SMA's substantive requirements. While neither "procedural" nor "substantive" is defined in the SMA, the DOE has indicated that it considers 'procedural requirements' to be actions necessary to implement the SMA and 'substantive requirements' to be regulations and standards adopted in master programs.

National Pollutant Discharge Elimination System Permits.

The federal Clean Water Act (CWA) sets effluent limitations for discharges of pollutants. "Pollutant" is defined in the CWA to include a variety of materials that may be discharged into water through human activities, construction or industrial processes, or other methods. The DOE is the delegated federal CWA authority by the United States Environmental Protection Agency and is responsible for implementing all federal and state water pollution control laws and regulations.

The CWA establishes the National Pollutant Discharge Elimination System (NPDES) permit system to regulate wastewater discharges from point sources to surface waters. "Point sources" are defined generally as discernible, discrete, and confined conveyances from which pollutant discharges can or do occur. The NPDES permits are required for anyone who discharges wastewater to surface waters or who has a significant potential to impact surface waters. The NPDES permits also are required for storm water discharges from certain industries, construction sites of specified sizes, and municipalities operating municipal separate storm sewer systems that meet specified criteria.

In state and NPDES permit programs, the DOE issues both individual permits (covering single, specific activities or facilities) and general permits (covering a category of similar dischargers). These permits include limits on the quantity and concentrations of contaminants that may be discharged. These permits also may require wastewater treatment or impose operating or other conditions.

Summary of Engrossed Bill:

Remedial actions conducted at a facility or by the DOE pursuant to the MTCMA are exempt from requirements to obtain a substantial development permit, conditional use permit, or a variance, rather than exempt from the procedural requirements of the SMA.

The installation of site improvements for storm water treatment in an existing boatyard facility to comply with a NPDES storm water general permit is exempt from requirements to obtain a substantial development permit, conditional use permit, or a variance under the SMA. The DOE is obligated to ensure that the installation of the site improvements comply with the substantive requirements of the SMA through the review of engineering reports, site plans, and other installation-related documents.

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) This bill is a win-win for the environment and businesses. The Northwest Marine Trade Association has been working with the DOE and People for Puget Sound on alternate bill language that would create an exemption-based approach to addressing boatyard storm water treatment systems rather than the expedited permitting approach in the bill. This bill is important for the 69 boatyards in the state, most of which are small and privately owned. The marine trade industry is a \$4 billion industry with 28,000 jobs. Installing boatyard storm water treatment systems will be expensive, but boatyard owners want to do the right thing. Boatyard owners are willing to invest substantial funds in treatment systems, but they need the help that this legislation represents. This bill removes uncertainty, helps boatyard owners, and won't cost the state any money. This bill is a work-in-progress and the expedited permit approach is preferred to an exemption-based approach.

(Opposed) None.

Persons Testifying: Peter Schrapen, Northwest Marine Trade Association; Bruce Marshall, Port of Olympia; and Heather Trim, People for Puget Sound.

Persons Signed In To Testify But Not Testifying: None.