

FINAL BILL REPORT

ESHB 1090

C 23 L 14
Synopsis as Enacted

Brief Description: Increasing the dollar amount for construction of a dock that does not qualify as a substantial development under the shoreline management act.

Sponsors: House Committee on Local Government (originally sponsored by Representatives Shea, Reykdal, Crouse, Holy, Springer and Dahlquist).

House Committee on Local Government
Senate Committee on Natural Resources & Parks

Background:

The Shoreline Management Act (SMA) was enacted in 1971, and it governs uses of the shorelines of the state. With some exceptions, shorelines of the state are all water areas of the state, the land underlying them, including reservoirs, and their associated shorelands. Shorelands include lands that extend landward 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark and certain floodways and contiguous floodplain areas, wetlands, and river deltas.

The SMA provides for a cooperative regulatory approach between state and local governments (counties, cities, or towns that contain within their boundaries any lands or waters subject to the SMA). All counties and cities with shorelines of the state must adopt and enforce a local shoreline master program (master program), which is comprised of each jurisdiction's comprehensive use plan, shoreline use regulations, statement of goals, and standards developed in accordance with policies enumerated in statute. Master programs must be consistent with guidelines adopted by the Department of Ecology (DOE). Master programs, and any segments of or amendments to the programs, become effective when approved by the DOE.

The master program guidelines adopted by the DOE were revised in 2003 by rule.

Development Permits Under the Shoreline Management Act.

Prior to undertaking any substantial development on the shorelines of the state, 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, or any development that materially interferes with the normal public use of the water

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or shorelines of the state. Under the SMA, certain developments are not considered substantial developments and are exempt from the substantial development permitting requirement.

Construction of a Dock.

Under certain circumstances, construction of a dock is not considered a "substantial development" for purposes of the SMA. To qualify for this exemption, the dock must:

- be designed for pleasure craft use only;
- be designed for private noncommercial use by the: (1) owner, (2) lessee, or (3) contract purchaser of single and multiple family residences; and
- have a fair market value that does not exceed \$2,500 in salt waters, or \$10,000 in fresh waters.

If subsequent dock construction within five years of completion of prior dock construction has a fair market value exceeding \$2,500, then the subsequent construction is considered a substantial development subject to the SMA permitting requirements.

Consumer Price Index.

The consumer price index for urban wage earners and clerical workers (CPI-W) is an index prepared and published by the Bureau of Labor Statistics of the United States Department of Labor, which measures the average change in prices of goods and services. It is used to illustrate the extent that prices have risen or the amount of inflation that has taken place.

Summary:

For construction of certain docks in fresh waters, the dollar threshold (below which dock construction is not considered a substantial development subject to permitting requirements of the SMA) is increased to \$20,000. Docks constructed in fresh waters that meet the following criteria are subject to the \$20,000 threshold: (1) the dock replaces an existing dock; (2) the dock has equal or lesser square footage than the dock being replaced; and (3) the dock is located in a jurisdiction that has updated its master program consistent with the 2003 guidelines adopted by the DOE. All other docks constructed in fresh waters continue to be subject to the \$10,000 threshold.

A provision governing combined fair market value of subsequent and prior dock construction for purposes of determining whether subsequent dock construction is a "substantial development" subject to the SMA permitting requirements is modified. Where subsequent dock construction occurs within five years of completion of prior dock construction, and the combined fair market value of the prior and subsequent construction exceeds the applicable dollar threshold for salt waters (\$2,500) or for fresh waters (\$10,000 or \$20,000), the subsequent construction is considered a substantial development.

The fresh water dollar thresholds must be adjusted for inflation by the Office of Financial Management (OFM) every five years, beginning July 1, 2018, using the consumer price index for urban wage earners and clerical workers (CPI-W) for the Seattle, Washington area. The OFM must calculate and transmit the new dollar thresholds, rounded to the nearest \$100, to the Office of the Code Reviser for publication at least one month before they are to take effect.

Votes on Final Passage:

House 95 0

House 97 0

Senate 49 0

Effective: June 12, 2014