

# SENATE BILL REPORT

## SB 6376

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As Reported By Senate Committee On:  
Environmental Quality & Water Resources, February 3, 2000

**Title:** An act relating to injunctive relief under the shoreline management act.

**Brief Description:** Authorizing injunctive relief under the shoreline management act.

**Sponsors:** Senators Kline, Fraser, Heavey, Patterson, Thibaudeau and Kohl-Welles.

**Brief History:**

**Committee Activity:** Environmental Quality & Water Resources: 1/28/2000, 2/3/2000  
[DPS, DNP].

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### SENATE COMMITTEE ON ENVIRONMENTAL QUALITY & WATER RESOURCES

**Majority Report:** That Substitute Senate Bill No. 6376 be substituted therefor, and the substitute bill do pass.

Signed by Senators Fraser, Chair; Eide, Vice Chair; Jacobsen, McAuliffe, Morton and Swecker.

**Minority Report:** Do not pass.

Signed by Senator Honeyford.

**Staff:** Genevieve Pisarski (786-7488)

**Background:** One section of the state Shoreline Management Act provides that any person who is regulated under the act and who violates the act is liable for any resulting damage to public or private property, including restoration of the damaged area. The Attorney General or local government attorney is authorized to sue for damages on behalf of state or local government. Private persons are authorized to sue for damages on their own behalf or on behalf of others similarly situated. Another section of the act provides that the Attorney General or local government attorney shall bring injunctive, declaratory, or other actions, as necessary, to enforce the act. A state appellate court has ruled that, as a result of these provisions, only the Attorney General or local government attorney can bring an action for injunctive relief, and a private person cannot. There is concern that, as a result of this ruling, the state Shoreline Management Act should be clarified to expressly recognize a right of private persons to seek injunctive relief. Injunctive relief could include stopping the violation from proceeding, as well as restoring any damage.

**Summary of Substitute Bill:** Private persons have the right to bring suit for injunctive relief, as well as for damages.

**Substitute Bill Compared to Original Bill:** A statement of legislative intent to provide injunctive relief to private persons who have sustained damage to their own property is added.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** People whose property is harmed will be able to stop or undo the harm, rather than having to wait and sue for damages. The need for lawsuits for money damages will be prevented. Many other laws provide for injunctive relief, a right that citizens ought to have. There have been many cases in which citizens have not been able to rely on government enforcement to protect their property.

**Testimony Against:** Existing remedies are sufficient, such as common law nuisance. Not just neighboring property owners would be able to sue and the number of court cases would be increased. The certainty of permits would be impaired. There might be no underlying permit violation. Requirements for posting bonds and other limitations would have to be placed on the right to injunctive relief. It is omitted from existing law intentionally, because it is an extreme power.

**Testified:** Senator Kline, prime sponsor; Josh Baldi, WA Environmental Council (pro); Scott Hazlegrove, AWB (con); Bill Clarke, Realtors (con); Jodi Slavik, BIAW (con).