

# HOUSE BILL REPORT

## ESHB 2305

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### As Amended by the Senate

**Title:** An act relating to clarifying the application of shoreline master program guidelines and master programs to agricultural activities on agricultural lands.

**Brief Description:** Clarifying the application of shoreline master program guidelines and master programs to agricultural activities on agricultural lands.

**Sponsors:** By House Committee on Local Government & Housing (originally sponsored by Representatives Hatfield, Doumit, Kessler, Grant, Kirby, Edwards and Linville).

### Brief History:

#### Committee Activity:

Local Government & Housing: 2/5/02, 2/7/02 [DPS].

#### Floor Activity:

Passed House: 2/18/02, 73-25.

Senate Amended.

Passed Senate: 3/7/02, 31-17.

### Brief Summary of Engrossed Substitute Bill

- Specifies that the shoreline master program guidelines may not address new agricultural development meeting the definition of agricultural land, conversion of agricultural lands to other uses, and agricultural activities, and provides definitions.
- Provides that the act is not effective until the earlier of either January 1, 2004 or the date the Department of Ecology amends or updates WAC 176-16 or 173-26.

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### HOUSE COMMITTEE ON LOCAL GOVERNMENT & HOUSING

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Dunshee, Chair; Edwards, Vice Chair; Berkey, Hatfield, Kirby and Sullivan.

**Minority Report:** Without recommendation. Signed by 5 members: Representatives Mulliken, Ranking Minority Member; Crouse, DeBolt, Dunn and Mielke.

**Staff:** Amy Wood (786-7127).

**Background:**

The Shoreline Management Act (SMA) governs all shorelines of the state, including both shorelines and shorelines of state-wide significance. Shorelines include all water areas, including reservoirs, and their associated shorelands except: (1) shorelines of statewide significance; (2) shorelines on segments of streams upstream of a point at which the mean annual flow is less than or equal to 20 cubic feet per second (cfs); and (3) shorelines on lakes fewer than 20 acres in size. Shorelands include the lands extending landward 200 feet in all directions from the ordinary high water mark as well as floodways and contiguous floodplain areas landward 200 feet from the floodways. Shorelands also include all wetlands and river deltas associated with streams, lakes and tidal waters subject to the SMA.

The SMA requires counties and cities with shorelines to adopt local shoreline master programs regulating land use activities in shoreline areas of the state and to enforce those master programs within their jurisdictions. All 39 counties and more than 200 cities have enacted master programs.

The SMA also requires the Department of Ecology (DOE) to adopt guidelines for local governments to use when developing these local shoreline master programs. The DOE may propose amendments to the guidelines no more than once per year and must review the guidelines at least once every five years.

Local governments must develop or amend shoreline master programs consistent with the DOE guidelines within 24 months after the DOE guidelines are adopted. The DOE considers the adopted guidelines and SMA requirements when reviewing and approving local shoreline master programs.

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**Summary of Engrossed Substitute Bill:**

Shoreline master program guidelines adopted by the DOE, and local shoreline master programs based on those guidelines may not address new agricultural development that meets the definition of agricultural practices, and that do not limit or affect the critical area ordinances adopted under the Growth Management Act. The guidelines and master programs do not apply retroactively to agricultural practices. The provisions to this section apply only to this chapter.

The provisions of the act are not effective until the earlier of either January 1, 2004 or the date the Department of Ecology amends or updates WAC 173-16 or 173-26.

Agricultural activities is defined to include a variety of agricultural uses and activities

including:

- producing, breeding, or increasing agricultural products;
- rotating and changing agricultural crops;
- allowing land used for agricultural activities to lie fallow for agricultural or conservation purposes;
- conducting agricultural operations;
- maintaining, repairing, and replacing agricultural equipment and facilities; and
- maintaining agricultural lands under production or cultivation.

Agricultural products include, among others, horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products as well as feed or forage for livestock. The term also includes livestock and animal products, including meat, upland finfish, poultry, and dairy.

Agricultural equipment and agricultural facilities includes, among others, equipment, machinery, shelters, buildings, ponds, fences, upland finfish rearing facilities, water diversions, and water conveyance and use equipment and facilities.

Agricultural land means those specific land areas on which agricultural activities are conducted.

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#### **EFFECT OF SENATE AMENDMENT(S):**

Provides that the section shall not effect any other authority of local governments.

**Appropriation:** None.

**Fiscal Note:** Not Requested.

**Effective Date:** The bill takes effect January 1, 2004, or the date the Department of Ecology amends or updates chapter 173-16 or 173-26 WAC.

**Testimony For:** Grays Harbor economy is very deep into agriculture, especially with major losses in timber and fishing. Since 1999, DOE has stated emphatically that agriculture is exempted from the new shoreline rules, so this just puts this in statute. Rural counties have extreme concern over viability of agriculture. Thurston County farm lands are disappearing due to over-regulation, and farmers are walking away from their lands.

Farm in Nisqually valley - used to be a dairy farm for about 58 years, but recently changed that due to the number of changes required by the DOE. One was cost; two was farm couldn't get assurances that upgrades would be acceptable in two or three years, and

that the upgrades will still meet state water quality requirements; and third, the farm didn't feel it was a pollution problem regarding water quality in local stream. There are still water quality problems on the stream that borders property, even after the farm no longer runs dairy.

Legislature has to help the farmers, and stop passing restrictive bills. No where else but on the coast do competing land uses including agriculture need the shoreline environment more. The challenge is to balance competing land uses to meet shoreline management act. Agriculture must not be pushed out of the picture, as agriculture is important to achieve the goal of keeping agriculture lands in production. Farms are seen as an opportunity to maintain economic viability.

**Testimony Against:** The language for the agriculture exemption has been worked on since last year - environmental groups went further than they felt comfortable when the bill was drafted, but they went along as part of larger package that includes funding. They are concerned that language may cloud new agriculture practices - ongoing farms will not be affected by new regulations. Better not to make adjustments on the shoreline act until negotiations are completed, then come back and deal with the farmers' problems.

**Testified:** (In support) Rep. Hatfield, prime sponsor; Dan Wood, Grays Harbor County; Kevin O'Sullivan, Thurston County Commissioner; Jeff Schilter, citizen; Carl E. Howell, citizen; Bryan Harrison, Pacific County; Hertha Lund, Washington State Farm Bureau; Jim Halstrom, Horticulture; and Britt Dudeck, Washington State Farm Bureau.

(Opposed) Bruce Wishart, People for Puget Sound.