

SENATE BILL REPORT

SB 5473

As Reported By Senate Committee On:
Water, Energy & Telecommunications, February 27, 2007

Title: An act relating to changing the definition of floodway in the shoreline management act.

Brief Description: Changing the definition of floodway in the shoreline management act.

Sponsors: Senators Oemig, Morton, Regala and Clements; by request of Department of Ecology.

Brief History:

Committee Activity: Water, Energy & Telecommunications: 2/16/07, 2/27/07 [DP, w/oRec].

SENATE COMMITTEE ON WATER, ENERGY & TELECOMMUNICATIONS

Majority Report: Do pass.

Signed by Senators Poulsen, Chair; Rockefeller, Vice Chair; Honeyford, Ranking Minority Member; Delvin, Fraser, Marr, Morton, Oemig, Pridemore and Regala.

Minority Report: That it be referred without recommendation.

Signed by Senator Holmquist.

Staff: Margaret King (786-7416)

Background: The Shoreline Management Act (SMA) 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 involves a cooperative regulatory approach between local governments and the state. 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 must be consistent with guidelines adopted by the Department of Ecology (DOE). The programs, including segments of or amendments to, become effective when approved by the DOE.

The SMA includes numerous definitions and concepts that guide state and local governments in implementing the act. As defined in the SMA, "floodway" means those portions of the area

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of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually. Floodways are identified, under normal conditions, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition. Floodways must not include lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the state, or political subdivisions of the state.

The SMA does not contain specific requirements that local governments must satisfy for floodways, but administrative rules adopted by the DOE for reducing flood hazards include provisions that apply to uses and activities that may be appropriate or necessary within floodways.

Summary of Bill: The SMA definition of "floodway" is amended to specify that a floodway is the area of a river valley that conveys flood waters with reasonable regularity, although not necessarily annually. The definition further specifies that, at a minimum, the floodway is that which has been established in Federal Emergency Management Act (FEMA) flood insurance rate maps or FEMA floodway maps. Other data and information, including topography, changes in soil or vegetation, and other indicators of past flooding may be used to define and map a floodway that meets the objectives of the SMA. Floodways must not include those lands that can reasonably be expected to be protected from 100-year flood waters by flood control devices maintained by or under license from the federal government, the state, or political subdivisions of the state.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: The definition of floodway needs to be updated to reflect court case and FEMA issues. A slight change to the language to address a concern is being worked on.

Persons Testifying: PRO: Tom Clingman, DOE.