HOUSE BILL REPORT
HB 1379

As Reported by House Committee On:
Local Government & Housing

Title: An act relating to moratoria and other interim official controls adopted under the shoreline management act.

Brief Description: Regarding moratoria and other interim official controls adopted under the shoreline management act.

Sponsors: Representatives Seaquist, Angel and Liias.

Brief History:
  Committee Activity:
    Local Government & Housing: 2/2/09, 2/11/09 [DPS].

Brief Summary of Substitute Bill

- Specifies that local governments may adopt moratoria or other interim official controls as necessary and appropriate to implement the Shoreline Management Act (SMA).

- Establishes public hearing, notification, and other requirements that must be met by local governments choosing to adopt moratoria or interim controls.

- Specifies that moratoria or interim controls may be effective for up to six months, but allows the local government to renew the moratoria once if delineated requirements are met.

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 Simpson, Chair; Nelson, Vice Chair; Angel, Ranking Minority Member; Miloscia, Springer and White.

Minority Report: Do not pass. Signed by 3 members: Representatives Ericksen, Assistant Ranking Minority Member; Cox and Short.

Staff: Ethan Moreno (786-7386)

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.

Background:

Shoreline Management Act.

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, the SMA regulations are developed in local shoreline master programs (master programs). All counties and cities with shorelines in the state 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 master programs within their jurisdictions. Master programs must be consistent with guidelines adopted by the Department of Ecology (DOE), and the programs, and segments of or amendments to, become effective when approved by the DOE.

Supreme Court Action.

On October 11, 2007, the Washington Supreme Court ruled in *Ray Biggers, et. al., v. City of Bainbridge Island*, 2007 Wash. LEXIS 784, that Bainbridge Island exceeded its authority in adopting rolling moratoria for shoreline development. The four justices comprising the lead opinion expressed that the city's actions failed, in part, because the SMA does not include an express provision authorizing jurisdictions to adopt moratoria. Concurring in result with the lead opinion, a fifth justice concluded that the city had proper authority to adopt moratoria, but that the imposition of rolling moratoria was unreasonable and in excess of its lawful power.

Summary of Substitute Bill:

Local governments may adopt moratoria or other interim official controls as necessary and appropriate to implement the SMA. A local government adopting a moratorium or control under this authority must satisfy timely public hearing requirements, adopt detailed findings of fact, and notify the DOE of the moratorium or control.

A moratorium or control under the SMA may be effective for up to six months if a detailed work plan for remedying the issues and circumstances necessitating the moratorium or control is developed and made available for public review. Moratoria and controls may be renewed for one six-month period if the local government satisfies public hearing, fact finding, and notification requirements before the renewal.

Specified moratoria and interim official control provisions may not be construed to modify county and city moratoria powers conferred outside the SMA.

Substitute Bill Compared to Original Bill:

Limits moratoria or other interim official control extensions to one six-month renewal after the originally adopted moratorium or control.

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Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: 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 request of the City of Gig Harbor; its sole purpose is to allow municipalities to declare moratoria under the SMA. There are legal and practical benefits to granting local governments this authority. This is a housekeeping measure. The Supreme Court muddied the waters and it is not clear whether jurisdictions can adopt moratoria under the SMA. Jurisdictions want to be able to properly sort out development requests and this bill will help. This bill is transparent: it requires jurisdictions to adopt findings of fact. The bill clarifies the law, requires public participation, and is a good implementation tool for the SMA. The bill will establish a clear set of moratoria procedures under the SMA that must be followed by all local governments, will place reasonable restrictions on those local governments, and may prevent a land rush during the master program update process.

(Opposed) None.

Persons Testifying: Representative Seaquist, prime sponsor; Derek Young, Rob Karlinsky, Peter Katich and Briahna Taylor, City of Gig Harbor; Tom Clingman, Department of Ecology; and Bruce Wishart, People for Puget Sound.

Persons Signed In To Testify But Not Testifying: None.