

FINAL BILL REPORT

ESHB 1379

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Synopsis as Enacted

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

Sponsors: House Committee on Local Government & Housing (originally sponsored by Representatives Seaquist, Angel and Liias).

House Committee on Local Government & Housing
Senate Committee on Government Operations & Elections

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 city and county shoreline master programs (master programs) that regulate land use activities in shoreline areas of the state. 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 *Biggers v. City of Bainbridge Island*, that Bainbridge Island exceeded its authority in adopting rolling moratoria for shoreline development. The four justices comprising the lead opinion indicated that the city's actions failed, in part, because the SMA does not include an express provision authorizing jurisdictions to adopt moratoria. Concurring in 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.

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.

Summary:

Local governments may adopt moratoria or other interim official controls as necessary and appropriate to implement the SMA. Local governments adopting a moratorium or control under the SMA must satisfy timely public hearing requirements, adopt detailed findings of fact, and notify the DOE of the moratoria or controls. Local governments adopting a moratorium or control under the SMA must also provide that all lawfully existing uses, structures, or other development must continue to be lawful conforming uses and may, with some exceptions, continue to be maintained, repaired, and redeveloped under applicable land use and shoreline rules and regulations.

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 two six-month periods if the local government satisfies public hearing, fact finding, and notification requirements before each renewal.

If a moratorium or control under the SMA is in effect on the date a proposed master program or master program amendment is submitted to the DOE, the moratorium or control must remain in effect until the DOE's final action on the master program or amendment, or six months after the date of the submittal to the DOE, whichever is first.

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

Votes on Final Passage:

House	60	36	
Senate	31	16	(Senate amended)
House			(House refuses to concur)
Senate	30	19	(Senate amended)
House			(House refuses to concur)
Senate	28	19	(Senate amended)
House	67	28	(House concurred)

Effective: July 26, 2009