

SENATE BILL REPORT

SHB 1624

As Reported By Senate Committee On:
Agriculture & Environment, April 3, 1997

Title: An act relating to defining wetlands for growth management purposes.

Brief Description: Defining wetlands for growth management purposes.

Sponsors: House Committee on Government Reform & Land Use (originally sponsored by Representatives Thompson, Dunn, Mulliken, Mielke and Boldt).

Brief History:

Committee Activity: Agriculture & Environment: 4/3/97 [DP, DNP].

SENATE COMMITTEE ON AGRICULTURE & ENVIRONMENT

Majority Report: Do pass.

Signed by Senators Morton, Chair; Swecker, Vice Chair; Newhouse and Oke.

Minority Report: Do not pass.

Signed by Senators Fraser and McAuliffe.

Staff: Kari Guy (786-7437)

Background: The Growth Management Act (GMA) requires cities and counties to designate and adopt development regulations to protect critical areas. In designating critical areas, counties and cities must consider the minimum guidelines adopted by the Department of Community, Trade, and Economic Development.

Under GMA, the definition of critical areas includes wetlands. GMA defines a wetland as an area saturated by surface or ground water at a frequency or duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and other similar areas.

Wetlands do not include artificial wetlands intentionally created from non-wetland sites, including irrigation ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. Wetlands may, however, include artificial wetlands intentionally created from non-wetland areas to mitigate conversion of wetlands. The definition of wetlands does not include wetlands created after July 1, 1990 that were unintentionally created as a result of the construction of a road, street, or highway.

Wetlands must be delineated according to the 1987 manual prepared by the U.S. Army Corps of Engineers, and adopted as rule by the Department of Ecology.

Summary of Bill: To be characterized as a wetland, an area must measurably and demonstrably perform a wetland function. The definition of wetlands does not include

wetlands unintentionally created as a result of road construction. Lands farmed, developed, or otherwise employed in a non-wetland use prior to 1987 cannot be designated a wetland.

In adopting critical areas development regulations, counties and cities must consider and balance the goals of GMA. Counties and cities may exempt emergency activities and activities with minor impacts on critical areas from development regulations. Counties and cities may also exempt wetlands with wetland functions no greater than that performed by the surrounding upland. A project permit cannot be denied based upon adverse impact upon the wetland unless the wetland function is adversely impacted. A landowner whose land is flooded due to actions on surrounding land may take reasonable measures without a permit to halt the flooding and to drain the water.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: This is a common sense approach to wetland definition and regulation. Areas that have been used for many years for farming or other uses, and do not demonstrate any wetland functions, should not be regulated as wetlands.

Testimony Against: This bill is confusing and will take away local control over land use regulation. It is unclear what activities are exempt from critical area regulation. The bill appears to amend the hydraulics code by reference.

Testified: Dick Johnson, Washington State Farm Bureau (pro); Scott Merriman, Washington Environmental Council (con).