

# HOUSE BILL REPORT

## HB 2391

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### As Reported By House Committee On:

Local Government

**Title:** An act relating to shoreline planning.

**Brief Description:** Creating a joint task force on shoreline planning.

**Sponsors:** Representatives Doumit, Mulliken, Scott, Mielke, Hatfield, Fortunato, Grant, Linville, Kessler, Edwards, Mastin and Talcott.

### Brief History:

#### Committee Activity:

Local Government: 1/17/00, 2/3/00 [DPS].

#### Brief Summary of Substitute Bill

- Creates a 28 member Joint Task Force on shoreline planning to make recommendations on a variety of shoreline planning, regulation, and protection issues.
- Requires the Department of Ecology to convene a work group to: (1) develop shoreline master program guidelines; and (2) seek federal assurances before the guidelines are adopted.
- Changes the deadline for local governments to amend or develop local shoreline master programs after the Department of Ecology guidelines are adopted.

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### HOUSE COMMITTEE ON LOCAL GOVERNMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Mulliken, Republican Co-Chair; Scott, Democratic Co-Chair; Doumit, Democratic Vice Chair; Mielke, Republican Vice Chair; Ericksen and Fortunato.

**Minority Report:** Without recommendation. Signed by 2 members: Representatives Edwards and Fisher.

**Staff:** Caroleen Dineen (786-7156).

**Background:**

The Shoreline Management Act (SMA) requires counties and cities to adopt local shoreline master programs regulating land use activities in shoreline areas of the state and to enforce approved programs within their jurisdictions. The SMA also requires the Department of Ecology (DOE) to adopt guidelines for local governments to use when developing these local shoreline master programs. Local governments must develop or amend shoreline master programs consistent with the DOE guidelines within 24 months after the DOE guidelines are adopted.

The Growth Management Act (GMA) requires certain counties and the cities in those counties to plan according to statutory requirements and provides a mechanism for other counties to choose to plan under the GMA. The GMA requires all jurisdictions to designate natural resource lands and designate and protect critical areas, regardless of whether they plan under the GMA. Among other requirements, each county and city planning under RCW 36.70A.040 (GMA jurisdiction) is required to designate urban growth areas and to adopt a comprehensive plan and implementing development regulations. By September 1, 2002, and at least every five years thereafter, GMA jurisdictions must review and, if needed, revise their plans and regulations for consistency with GMA requirements. Legislation enacted in 1995, required GMA jurisdictions to include their shoreline master programs as elements of their GMA comprehensive plans.

During 1999, the DOE issued and accepted public comment on new proposed shoreline master program guidelines but later withdrew the proposed guidelines. In December 1999, the DOE issued a "working draft" of shoreline master program guidelines.

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**Summary of Substitute Bill:**

*Joint Task Force on Shoreline Planning*

The Joint Task Force on Shoreline Planning is established, to commence on July 1, 2000. The 28 member task force includes:

- eight members of the House of Representatives, including the co-chairs of the appropriations, local government, natural resources, and agriculture and ecology committees;
- eight members of the Senate, including the chairs and ranking minority members of the ways and means, state and local government, natural resources, and water resources committees;

- one nonvoting member from the Governor's office with expertise in shoreline planning;
- three nonvoting citizen representatives;
- four local government representatives, two nominated by the Association of Washington Cities and two nominated by the Washington State Association of Counties;
- two environmental representatives nominated by environmental groups; and
- two business representatives nominated by the business community.

The task force is to be co-chaired by a senator and a representative from opposite parties as chosen by the task force. The nonvoting members, other than the Governor's representative, are to be appointed jointly by the co-chairs of the House of Representatives and the majority and minority leaders of the Senate. Nonlegislative members serve without compensation but may be reimbursed for travel expenses.

Only legislative members may vote on findings, conclusions and recommendations. Quorum, conduct of business, and voting requirements are specified. Clerical and administrative staff assistance is to be provided by committee staff of the House of Representatives and the Senate.

The task force is required to review and make recommendations for legislation and policy regarding a variety of shoreline issues, including: (1) role of shoreline planning and permitting systems; (2) integration of land use laws relating to shorelines; (3) local government costs and funding sources for implementation of state shoreline master program guidelines; (4) regulatory flexibility for shoreline planning; (5) prioritization of shoreline regulations; (6) shoreline protection incentives; and (7) programmatic approaches to permitting programs.

The task force must coordinate with the National Marine Fisheries Service and the U.S. Fish and Wildlife Service regarding federal Endangered Species Act requirements. The task force must periodically report findings and recommendations to the Legislature and must submit a final report by December 31, 2001. The task force provisions expire June 30, 2002.

#### *Shoreline Master Program Guidelines*

The DOE is required to convene a work group to develop shoreline master program guidelines. The work group must include representatives of all affected public agencies and interest groups. The DOE must use a negotiated decision making process to develop the guidelines. The DOE may not adopt guidelines developed through this process until it has received federal assurances that activities governed by the guidelines and local shoreline master programs will not be subject to additional regulations or restrictions for purposes of federal Endangered Species Act compliance.

In developing the guidelines, the DOE and the work group must prioritize the restoration and enhancement of urban shoreline environments west of the crest of the Cascade mountain range that are listed as water quality limited segments under Section 303(d) of the federal clean water act. The DOE and the work group must develop strategies for these areas to address issues such as contaminated sediments, storm water, land uses, and hydraulic permits and include these strategies in the guidelines.

Within 36 months after the DOE guidelines are adopted, counties with populations greater than 225,000 in 1999 located west of the crest of the Cascade mountain range and their cities must review their local shoreline master programs for compliance with the guidelines. Other counties and cities must review their shoreline master programs based on a schedule approved by the Legislature after recommendations by the task force.

The deadline for local governments to develop or amend local shoreline master programs after the DOE adopts state shoreline master programs is extended from 24 to 60 months.

**Substitute Bill Compared to Original Bill:** The original bill created a 27 member task force with nonlegislative members appointed by the Governor. The original bill did not limit voting to legislative members. The original bill did not include the requirement for the DOE to convene a work group to develop shoreline master program guidelines; rather, the original bill: (1) extended the time period for the DOE's mandatory review of the shoreline master program guidelines; (2) extended the deadline for local governments to amend or develop local shoreline master programs after the DOE guidelines are adopted; and (3) imposed a one-year moratorium on DOE shoreline management act rulemaking.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill contains an emergency clause and takes effect immediately.

**Testimony For:** (Original bill) Many districts in the state feel the shoreline master program rules have been amended in a fashion far broader than the original legislative intent. This bill tries to bring the rule amendment back into a more organized time frame and within a negotiated process so that the rules can be part of the salmon recovery plan for the state. The Legislature needs to take back the policy role from the DOE.

The task force is important now considering the significant Endangered Species Act concerns facing local governments. Some work done by previous groups is helpful but may not address the current situation.

The bill should specify voting requirements for the task force. The bill also should make this a legislative task force with participation by interest groups.

The bill should restrict the DOE from adopting new rules until the task force's final report is submitted.

The 7 year review period is better, but local governments should make the decision when to update their master programs.

**Testimony Against:** State and local governments should focus on responding to the Endangered Species Act (ESA) listings. The Shoreline Management Act provides protection for shorelines. Delays in updating master programs will create inconsistency in ESA responses. We need consistency now to develop clear, strong standards for salmon recovery.

The Legislature directed the DOE to review the master program guidelines. Many jurisdictions have outdated shoreline master programs, and delays in updating those programs may create significant damage to shorelines. Technology is available to assist local governments to amend their master programs. The proposed DOE rules will allow Puget Sound jurisdictions to move forward with salmon protection initiatives.

In the last 13 years, at least six committees have addressed the issues proposed for task force review. The task force proposed in this bill is too large to be able to do anything.

**Testified:** (In support) Representative Doumit, prime sponsor; Linda Johnson, Washington Farm Bureau; Mark Charlton, Kittitas County Farm Bureau; Karla Kay Fullerton, Washington Cattlemans Association; Dan Wood, Hoquiam School District; Scott Hazelgrove, Association of Washington Business; Bill Clarke, Washington Realtors Association; and Jodi Slavik, Business Industry Association of Washington.

(Opposed) Josh Baldi, Washington Environmental Council; Frances Murphy, Citizen; Denis Murphy, Citizen; Sherry Appleton, League of Women Voters; Doug R. Meyers, Puget Sound Water Quality Action Team; Dick Sheldon, Northern Oyster Company; Brian Sheldon, Willapa-Grays Harbor Oyster Growers Association; Mark Ballow, Grays Harbor Oyster Growers Association; Bruce Wishart, People for Puget Sound; Chris Leman, Coalition of Washington Communities; Arthur Grunbaum, FOGH; Diane Cooper, PCSGA and Taylor Shellfish; Commissioner Pat Hamilton, Pacific County; and Dan McShane, Consultant/Geologist, Whatcom County Council.

