

HOUSE BILL REPORT

HB 1191

As Reported By House Committee On:
Agriculture & Ecology

Title: An act relating to the temporary development of shorelines.

Brief Description: Providing a limited exemption from the substantial development provisions of the shoreline management act for motion picture production.

Sponsors: Representatives Morris, Dunn, Linville and Quall.

Brief History:

Committee Activity:

Agriculture & Ecology: 1/29/99, 2/23/99 [DPS].

Brief Summary of Substitute Bill

- Exempts motion picture production from the requirement for a substantial development permit.
- Provides conditions that must instead be met by persons proposing to use shoreline locations for motion picture production.

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: Do pass. Signed by 12 members: Representatives G. Chandler, Republican Co-Chair; Linville, Democratic Co-Chair; Koster, Republican Vice Chair; Anderson; B. Chandler; Fortunato; Grant; Reardon; Schoesler; Stensen; Sump and Wood.

Minority Report: Without recommendation. Signed by 2 members: Representatives Cooper, Democratic Vice Chair and Delvin.

Staff: Carole Richmond (786-7114).

Background:

The Shoreline Management Act of 1971 is intended to ensure that development of shorelines will promote and enhance the public interest. The act regulates activities through local shoreline master programs developed by local governments with policy guidance from the Department of Ecology. A number of terms are defined in the act, including "substantial development."

"Substantial development" is any development, such as bulkheading, dredging, dumping, removal of sand or gravel, and similar alterations of the shoreline, exceeding \$2,500 in cost or fair market value, or any development which materially interferes with the normal public use of the water or shorelines of the state, except for certain activities. Those excepted activities include such things as construction of normal protective bulkheads for single family residences; construction and practices normal or necessary for farming, irrigation, and ranching; construction of a single family house for personal use, and which may not exceed 35 feet in height; and construction of docks.

Activities other than the ones that are specifically exempted may be conducted only under a "substantial development permit" from the local jurisdiction where the activity is to take place. Applying for a substantial development permit requires public notice, an application, and review by the Department of Ecology of substantial development permits approved by a local jurisdiction that result in conditional uses or variances.

Summary of Substitute Bill:

A person who uses a shoreline location for the production of motion pictures is exempt from the substantial development provisions of the Shoreline Management Act when all of the following apply:

- The local government with jurisdiction determines the project will be consistent with the local shoreline master program and all applicable land use plans and development regulations;
- A checklist is completed under the State Environmental Policy Act and the local government finds the project will have no significant adverse impact on the environment;
- The person seeking the exemption notifies all property owners within 300 feet of the proposed project location of the intention to use the site;
- The temporary use of the shoreline is for one year or less;
- The project does not interfere with the normal commercial and navigational use of the surface waters of the state;
- An environmental assessment of the existing conditions of the shorelines of the state to be used for motion picture production is provided to local government, along with a mitigation and restoration plan to restore the existing conditions; and
- A performance bond is provided to the local government to ensure the existing conditions are restored.

Substitute Bill Compared to Original Bill:

The substitute bill provides additional conditions that must be met.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: (Original Bill) The substantial development permit process is too slow for projects such as motion picture productions, which are on a tight schedule. These projects need to be encouraged. They provide an economic boost to communities that depend upon tourism. It's too easy to appeal projects, such as these, that most people want. There is no intent to circumvent environmental protection. Motion picture producers will pay whatever it takes to protect the environment. They just need an answer. Factors such as permit timelines can mean the difference between making or losing hundreds of millions of dollars for the state. Washington shorelines have competition from Canada. This is an industry which works well in rural areas. Film sets are not a permanent impact.

Testimony Against: None

Testimony For with Concerns: (Original Bill) The bill goes beyond expediting permits; it eliminates permits entirely. Only 0.5 of all permits have ever been appealed. It's important to preserve the right of people to appeal. This bill sets a precedent. We're concerned about the impairment of public access to the shoreline, lack of public notice, and lack of mitigation requirements. Public involvement must be continued. This exemption raises a lot of concerns: about exempting an entire industry from permit requirements, about due process, and about who makes the final decisions. There are other temporary industries, such as geoduck harvesting, that are not exempt from substantial development permits.

Testified: (In Support) Jeff Morris, Washington State Representative; Nevada Spencer, film industry; Joel Youngerman, IATSK Local 488; and Suzy Kellett, Washington State Film Office.

(In Support with amendments) Bruce Wishart, People for Puget Sound; Gordon White, Washington Department of Ecology; Stan Biles, Washington Department of Natural Resources; and Kari Lynn Frank, Puyallup Tribe.