

**HB 2199** - S COMM AMD

By Committee on Natural Resources, Ocean & Recreation

ADOPTED 04/10/2009

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that restoration of  
4 degraded shoreline conditions is important to the ecological function  
5 of our waters. However, restoration projects that shift the location  
6 of the shoreline can inadvertently create hardships for property  
7 owners, particularly in urban areas. Hardship may occur when a  
8 shoreline restoration project shifts shoreline management act  
9 regulations into areas that had not previously been regulated under the  
10 act or shifts the location of required shoreline buffers. The  
11 legislature intends to provide relief to property owners in such cases,  
12 while protecting the viability of shoreline restoration projects.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 90.58 RCW  
14 to read as follows:

15 (1) The local government may grant relief from shoreline master  
16 program development standards and use regulations within urban growth  
17 areas when the following apply:

18 (a) A shoreline restoration project causes or would cause a  
19 landward shift in the ordinary high water mark, resulting in the  
20 following:

21 (i)(A) Land that had not been regulated under this chapter prior to  
22 construction of the restoration project is brought under shoreline  
23 jurisdiction; or

24 (B) Additional regulatory requirements apply due to a landward  
25 shift in required shoreline buffers or other regulations of the  
26 applicable shoreline master program; and

27 (ii) Application of shoreline master program regulations would  
28 preclude or interfere with use of the property permitted by local

1 development regulations, thus presenting a hardship to the project  
2 proponent;

3 (b) The proposed relief meets the following criteria:

4 (i) The proposed relief is the minimum necessary to relieve the  
5 hardship;

6 (ii) After granting the proposed relief, there is net environmental  
7 benefit from the restoration project;

8 (iii) Granting the proposed relief is consistent with the  
9 objectives of the shoreline restoration project and consistent with the  
10 shoreline master program; and

11 (iv) Where a shoreline restoration project is created as mitigation  
12 to obtain a development permit, the project proponent required to  
13 perform the mitigation is not eligible for relief under this section;  
14 and

15 (c) The application for relief must be submitted to the department  
16 for written approval or disapproval. This review must occur during the  
17 department's normal review of a shoreline substantial development  
18 permit, conditional use permit, or variance. If no such permit is  
19 required, then the department shall conduct its review when the local  
20 government provides a copy of a complete application and all supporting  
21 information necessary to conduct the review.

22 (i) Except as otherwise provided in subsection (2) of this section,  
23 the department shall provide at least twenty-days notice to parties  
24 that have indicated interest to the department in reviewing  
25 applications for relief under this section, and post the notice on  
26 their web site.

27 (ii) The department shall act within thirty calendar days of close  
28 of the public notice period, or within thirty days of receipt of the  
29 proposal from the local government if additional public notice is not  
30 required.

31 (2) The public notice requirements of subsection (1)(c) of this  
32 section do not apply if the relevant shoreline restoration project was  
33 included in a shoreline master program or shoreline restoration plan as  
34 defined in WAC 173-26-201, as follows:

35 (a) The restoration plan has been approved by the department under  
36 applicable shoreline master program guidelines;

37 (b) The shoreline restoration project is specifically identified in  
38 the shoreline master program or restoration plan or is located along a

1 shoreline reach identified in the shoreline master program or  
2 restoration plan as appropriate for granting relief from shoreline  
3 regulations; and

4 (c) The shoreline master program or restoration plan includes  
5 policies addressing the nature of the relief and why, when, and how it  
6 would be applied.

7 (3) A substantial development permit is not required on land within  
8 urban growth areas as defined in RCW 36.70A.030 that is brought under  
9 shoreline jurisdiction due to a shoreline restoration project creating  
10 a landward shift in the ordinary high water mark.

11 (4) The definitions in this subsection apply throughout this  
12 section unless the context clearly requires otherwise.

13 (a) "Shoreline restoration project" means a project designed to  
14 restore impaired ecological function of a shoreline.

15 (b) "Urban growth areas" has the same meaning as defined in RCW  
16 36.70A.030."

**HB 2199** - S COMM AMD

By Committee on Natural Resources, Ocean & Recreation

**ADOPTED 04/10/2009**

17 On page 1, line 2 of the title, after "projects;" strike the  
18 remainder of the title and insert "adding a new section to chapter  
19 90.58 RCW; and creating a new section."

**--- END ---**