

**SENATE BILL REPORT**

**ESB 6096**

**AS PASSED SENATE, FEBRUARY 17, 1992**

**Brief Description:** Regulating wetlands.

**SPONSORS:** Senators Bailey, Anderson, L. Smith and Barr

**SENATE COMMITTEE ON AGRICULTURE & WATER RESOURCES**

**Majority Report:** Do pass.

Signed by Senators Barr, Chairman; Anderson, Vice Chairman; Bailey, Conner, Hansen, and Newhouse.

**Staff:** Bob Lee (786-7404)

**Hearing Dates:** January 31, 1992; February 6, 1992

**BACKGROUND:**

At the federal level, the Corps of Engineers regulates certain activities on wetlands. The Shoreline Management Act of 1971 regulates those wetlands that are associated with shorelines of the state to be determined under a locally adopted shoreline master program.

During the 1990 and the 1991 sessions, the Growth Management Act was enacted which required cities and counties to adopt programs to protect wetlands within their jurisdictions. Under the Growth Management Act, there is a great degree of discretion with local governments to develop and adopt regulations to protect wetlands. The act does not establish standards for wetland protection. For example, current law does not indicate whether buffers should be required nor what size they should be.

The Growth Management Act established deadlines for local governments to adopt regulations to protect wetlands. In growth counties and those counties who opt to plan are required to adopt plans by September 1, 1991 with an extension of up to 180 days allowed. In counties not planning under the act, regulations to protect wetlands and other critical areas are to be adopted by March 1, 1992 with an extension of up to 180 days allowed.

The Growth Management Act does not indicate whether wetlands currently regulated under the Shoreline Management Act are or are not to be regulated under the Growth Management Act.

The Department of Community Development was authorized under the Growth Management Act to develop guidelines for local governments regarding wetland protection. Those guidelines recommend the use of the 1989 federal wetland delineation

manual, and by reference recommend the use of the Wetland Model Ordinance formulated by the Department of Ecology.

**SUMMARY:**

The stated purposes of the act are to:

1. Provide additional direction to local governments in the regulation of wetlands while maintaining a degree of local flexibility in the implementation of the Growth Management Act;
2. Establish a greater degree of consistency between local jurisdictions as to the content of local wetland protection ordinances; and
3. Provide a higher degree of consistency and compatibility between local wetland programs and the federal wetland regulatory program.

Wetland protection programs required to be adopted by local governments under the Growth Management Act are required to comply with the requirements of this act by September 1, 1992.

If disputes arise between the local jurisdiction and the landowner as to the boundaries of a wetland, the dispute is to be settled according to the same delineation manual as is currently being used by the Corps of Engineers.

The legislation requires local governments to adopt a wetland rating system in their local wetland regulations. Either a three-tiered or a four-tiered rating system can be utilized. The Department of Community Development is to appoint a five member advisory committee to make recommendations for a rating system based upon a review of rating systems used in other states.

Ranges for buffers that local governments must adopt are established. For wetlands of exceptional resource value (class I), buffers are to be between 50 and 100 feet. For wetlands of intermediate resource value (class II), buffers are to be between 25 and 50 feet. For wetlands of ordinary resource value (class III and IV), no buffers are to be required.

Local governments are required to use a permit system to protect wetlands. The choice is provided to either use an existing permit or to require a new permit to regulate wetland impacts. Mitigation is to be required based upon mitigation requirements taken from Oregon. Activities that are to be subject to permits are also taken from Oregon's statutes which require activities that affect over 50 cubic yards of material to be regulated.

There are exemptions from wetland permitting requirements, some of which are derived from the federal wetland law and others that are derived from other state's wetland laws.

Wetlands subject to the Shoreline Management Act are not to be governed under this act. State agencies actions are required to be consistent with the policies of this chapter unless explicit provisions of law requires otherwise.

A county with a population of less than 200,000 at the effective date of this act may choose to remove itself from the requirements to adopt a comprehensive land use plan prior to June 1, 1993. If the county's population subsequently exceeds 200,000, the county shall not be required to adopt a comprehensive land use plan.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** requested January 15, 1992

**TESTIMONY FOR:**

There needs to be state standards for wetland programs adopted by local governments to provide greater consistency between local programs.

**TESTIMONY AGAINST:**

The Growth Management Act allows considerable flexibility in the kind of wetland program local governments can adopt. This bill reduces local control.

**TESTIFIED:** Darrell Turner, Washington State Farm Bureau; Donald Marcy, National Association of Industrial and Office Parks; Ted Cowan, Property Rights Alliance (pro); David Grant, BIAW; Bob Hitt, Washington Cranberry Alliance (pro); Ray Shindler, Washington Cranberry Alliance (pro); Darlene Madenwald, Washington Environmental Council (con); Karen Lane, Glacker Park Co., Ingrid J. Wachtler, self (pro); Naki Stevens, People for Puget Sound; Vic Rhuoroff, farmer and rancher; Ginny Broadhurst, Puget Sound Water Quality Authority (con); Terry Husseman, Department of Ecology; Dee Arntz, Washington Wetlands Network (con); Barbara Douma, Seattle Audubon Society (con); Jeff Parsons, National Audubon Society (con); Bruce Wishart, Sierra Club (con); Donna Gerasimczyk, Snag Island/Lake Tapps citizens