

# HOUSE BILL REPORT

## HB 2046

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**As Passed House:**  
March 11, 2015

**Title:** An act relating to adding a definition of streams to the shoreline management act.

**Brief Description:** Adding a definition of streams to the shoreline management act.

**Sponsors:** Representatives Dent, Takko, Griffey and Tharinger.

**Brief History:**

**Committee Activity:**

Local Government: 2/12/15, 2/18/15 [DP].

**Floor Activity:**

Passed House: 3/11/15, 98-0.

**Brief Summary of Bill**

- Establishes a definition of "streams" in the Shoreline Management Act to mean naturally occurring bodies of periodic or continuously flowing water contained within a channel.
- Excludes certain water features from the definition of "streams," including artificially constructed waterbodies, hydroelectric canals, and natural channels or swales that would normally be dry, but for the presence of irrigation and irrigation return water.

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### HOUSE COMMITTEE ON LOCAL GOVERNMENT

**Majority Report:** Do pass. Signed by 9 members: Representatives Takko, Chair; Gregerson, Vice Chair; Taylor, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Fitzgibbon, McBride, McCaslin, Peterson and Pike.

**Staff:** Ethan Moreno (786-7386).

**Background:**

Shoreline Management Act.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The Shoreline Management Act of 1971 (SMA) governs uses of state shorelines and involves a cooperative regulatory approach between local governments and the state. At the local level, the SMA regulations are developed in mandatory city and county shoreline master programs (SMPs) that regulate land use activities in shoreline areas of the state. At the state level, the Department of Ecology (DOE) is charged with reviewing the locally adopted SMPs and approving those that comply with statutory provisions and agency guidelines governing their adoption. The goals and policies of an approved SMP are an element of the county or city's comprehensive plan adopted under the Growth Management Act (GMA).

The SMA includes numerous definitions and concepts that guide the state and local governments in implementing its provisions, including definitions that exempt certain water features from the jurisdiction of the SMA. For example, "wetlands" is defined in the SMA to mean, in part, areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. The definition of "wetlands" also specifies that the term does not generally include artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities.

**Summary of Bill:**

A definition of "streams" in the Shoreline Management Act is established to mean naturally occurring bodies of periodic or continuously flowing water contained within a channel.

Streams do not include:

- artificially constructed waterbodies, including irrigation, return flow, and stock watering channels;
- hydroelectric canals;
- drainage ditches; or
- natural channels or swales that would normally be dry, but for the presence of irrigation and irrigation return water.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This bill adds a definition of "streams" to the Shoreline Management Act (SMA). This bill seeks to remove irrigation facilities from the jurisdiction of the SMA.

Establishing a definition of "streams" would be a useful addition to the SMA. The Department of Ecology has a definition of the term in rules, and has a guidance document for irrigation facilities. This bill will provide a framework for sorting out jurisdiction issues for

irrigation facilities, and excluding artificial waterways that the SMA is not intended to manage.

The definition that the bill proposes gets to the heart of the issue: you cannot create a natural stream from an artificial waterway. If the water feature was a natural one before irrigation, that stream will continue to be subject to the SMA. This bill focuses on return flows that did not exist before irrigation.

This bill is an important amendment to the SMA, but the proposed definition to clarify the definition should be amended and made more specific. The bill needs to be modified to define what is, and what is not, a stream. The committee should not allow any imperfections in the first sentence of the bill to interfere with the value of its other provisions.

(With concerns) Support exists for the concept the bill is promoting, but some stakeholders have concerns about how the bill would relate to natural water bodies that have been heavily modified through human activity. The bill should be modified to ensure that heavily engineered water bodies with natural functions remain subject to the SMA.

(Opposed) None.

**Persons Testifying:** (In support) Tom Clingman, Department of Ecology; Mike Schwisow, Washington State Water Resources Association; Cindy Alia, Citizens' Alliance for Property Rights; Glen Morgan; and Ed Moats, Snohomish County Farm Bureau.

(With concerns) Bruce Wishart, Sierra Club.

**Persons Signed In To Testify But Not Testifying:** None.