

# HOUSE BILL REPORT

## ESHB 1631

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### As Passed Legislature

**Title:** An act relating to using revenues under the county conservation futures levy.

**Brief Description:** Using revenues under the county conservation futures levy.

**Sponsors:** By House Committee on Local Government (originally sponsored by Representatives Clibborn, Fromhold, Moeller, Wallace and Jarrett).

#### Brief History:

##### Committee Activity:

Local Government: 2/9/05, 2/21/05 [DPS];

Finance: 3/4/05, 3/7/05 [DPS(LG)].

##### Floor Activity:

Passed House: 3/14/05, 55-41.

Senate Amended.

Passed Senate: 4/7/05, 46-3.

House Concurred.

Passed House: 4/18/05, 92-3.

Passed Legislature.

#### Brief Summary of Engrossed Substitute Bill

- Allows a county to spend a maximum of 15 percent of a conservation futures levy fund for maintaining and operating property acquired with the fund.
- Requires a county to adopt measures to increase the capacity of land to enable planned housing and employment growth when conservation futures land acquisitions cause a reduction in a county's capacity to accommodate such growth.
- Requires a county legislative authority in counties with more than 100,000 residents to develop a process to distribute conservation futures levy funds throughout the county.
- Allows certain counties with low population densities to reallocate unspent conservation futures funds provided such reallocation is approved by county voters and other conditions are met.

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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 4 members: Representatives Simpson, Chair; Clibborn, Vice Chair; B. Sullivan and Takko.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Schindler, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; and Woods.

**Staff:** Thamas Osborn (786-7129).

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## HOUSE COMMITTEE ON FINANCE

**Majority Report:** The substitute bill by Committee on Local Government be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives McIntire, Chair; Hunter, Vice Chair; Conway, Hasegawa and Santos.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Orcutt, Ranking Minority Member; Roach, Assistant Ranking Minority Member; Ahern and Ericksen.

**Staff:** Mark Matteson (786-7145).

### **Background:**

Since 1971, state law has provided a method by which designated entities both public and private may acquire certain property rights for the purpose of conserving selected open space land, farm and agricultural land, and timber land for public use or enjoyment. Counties, cities, towns, metropolitan park districts, metropolitan municipal corporations, and nonprofit preservation and conservancy corporations meeting statutory requirements may acquire full or partial interests in lands by purchase, gift or other prescribed method. The pertinent statutes refer to such property interests as "conservation futures."

The acquisition of a "conservation future" by an authorized entity – public or private – confers that entity with rights in perpetuity allowing the exercise of varying degrees of control over how the property is developed or maintained. The degree and type of control over the property that may be exercised by an entity acquiring a conservation future is dependent on the terms of the purchase of the conservation future. For example, if a private owner sells a conservation future limiting his or her right to develop the property, but nevertheless retains title to the property, the private owner is restricted in his future use or development of the property in accordance with the terms of purchase agreement. In such instances, the private land owner would be required to seek the permission of the entity holding the conservation future before engaging in any activity that might be deemed inconsistent with the conservation future agreement.

Counties may levy a tax of up to 6.25 cents per \$1,000 of assessed valuation of all taxable property in the county for the purpose of acquiring conservation futures and other related rights and interests in real property. County legislative authorities may also establish a conservation futures fund, which may be used solely to acquire conservation futures and other rights and interests in real property pursuant to statutory requirements.

## **Summary of Engrossed Substitute Bill:**

Counties are allowed to use conservation futures levy funds for maintaining and operating property acquired with such funds. However, no more than 15 percent of the funds collected in the preceding calendar year may be used for maintenance and operation of parks and recreational facilities. Also, conservation futures tax revenues may not be used to supplant existing maintenance and operation funding.

All rights or interests in real property acquired with conservation futures levy funds must be located within the assessing county. Counties are also encouraged to use some conservation futures funds for salmon restoration purposes.

In the event the property rights acquired with conservation futures funds diminish the ability of a county to accommodate planned growth, the county must adopt reasonable measures to restore the growth capacity lost by such actions.

County commissioners or county legislative authorities in counties with more than 100,000 residents are required to develop a process to ensure that conservation futures levy funds are eventually distributed throughout the county.

County legislative authorities in certain counties may authorize a ballot proposition that asks county voters to determine whether or not the county may make a one-time emergency reallocation of unspent conservation futures funds to pay for other county government purposes. This provision applies only to counties with population densities of fewer than four persons per square mile, requires that specified procedures be followed pertaining to the submission of the ballot proposition to the voters, and expires as of July 1, 2008.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Testimony For:** (Local Government) (Original bill) It is very important that open space be preserved and maintained, but this will require a great deal of additional funding. This is a costly, but necessary, process that enhances the quality of our environment and benefits our communities. One benefit will be the preservation of salmon habitat. Enabling the acquisition of "conservation futures" is essential to this process. Additional funding, as provided under the bill, is necessary because at present the properties acquired through the purchase of conservation futures are slowly degrading. A substantial portion of the funding should, therefore, be used for maintenance and operations purposes. However, the amount set aside for maintenance and operations should be increased from 10 percent to 25 percent. The bill benefits the public and can often increase the value of properties adjacent to the open lands which are preserved. The bill does involve a tax increase, but is good public policy insofar as it encourages public support for greater population densities elsewhere. Expanding

open space areas is compatible with maintaining the requisite urban densities and will not reduce the availability of buildable lands.

**Testimony For:** (Finance) Revenues from these levies are going for the important public purposes of protecting fish habitat, parks, and open spaces. This program makes density requirements more palatable. The maintenance and operation is a new idea because counties and cities that have purchased these properties in some cases have become bad neighbors. These properties simply weren't being kept up. So we added an amendment that allocates 25 percent to maintenance and operation. In part this is to address the concern among builders that buildable lands might be bought up with the added funds.

Clark County has had a successful county conservation futures program that has leveraged many private and nonprofit dollars. The program has helped us avoid the situation where there would be a regulatory taking of land to preserve wetlands. The program has created a tourist magnet and is quite popular. When lands are part of the buildable lands inventory, which is rare, the buildable lands are extended at the earliest possible time in order to maintain balance in the overall inventory.

It has been difficult to find funds for the management and upkeep of parks. This allows a piece of the levy to be used for such purposes.

**Testimony Against:** (Local Government) (Original bill) This bill represents bad public policy because it does not provide the proper tool to provide for open space needs and will only add to the current crisis regarding the increasing lack of buildable lands. The bill is contrary to GMA goals since it allows for the purchase of buildable lands within urban growth boundaries. By thus diminishing the availability of buildable lands, the bill will have a negative impact on the availability of affordable housing. The bill will have the effect of exacerbating existing problems regarding affordable housing and does not provide the proper vehicle for creating needed parks and recreational land.

**Testimony Against:** (Finance) None.

**Persons Testifying:** (Local Government) (In support on original bill) Representative Clibborn, prime sponsor; Brit Kramer, Washington Recreation Association; Doug Levy, Cities of Everett, Kent, Federal Way, Renton, and Puyallup; Dawn Vyvyan, Washington Recreation and Parks Association; Peter Mayer, City of Mercer Island Parks & Recreation; Dave Williams, Association of Washington Cities; and Sharon Wylie, Clark County.

(Opposed on original bill) Trent Matson, Building Industry Association of Washington.

**Persons Testifying:** Sharon Wylie, Clark County; and Dawn Vyvyan, Washington Recreation and Park Association.

**Persons Signed In To Testify But Not Testifying:** (Local Government) None.

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