

HOUSE BILL REPORT

2SHB 1484

As Passed Legislature

Title: An act relating to habitat open space.

Brief Description: Regarding habitat open space.

Sponsors: House Committee on Capital Budget (originally sponsored by Representatives Van De Wege, Orcutt, Hurst, McCoy and Blake).

Brief History:

Committee Activity:

Agriculture & Natural Resources: 2/3/09, 2/10/09 [DPS];
Capital Budget: 2/24/09, 2/27/09 [DP2S(w/o sub AGNR)].

Floor Activity:

Passed House: 3/5/09, 97-0.
Senate Amended.
Passed Senate: 4/17/09, 46-0.
House Concurred.
Passed House: 4/21/09, 98-0.
Passed Legislature.

Brief Summary of Second Substitute Bill

- Expands the riparian open space program to include the acquisition of forest lands containing critical habitat for threatened or endangered species.
- Authorizes the Department of Natural Resources to transfer lands to another public agency without an auction if the lands are located in a county with a population of 25,000 or fewer and if the lands are encumbered with timber harvest deferrals longer than 30 years.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Blake, Chair; Chandler, Ranking Minority Member; Smith, Assistant Ranking Minority Member; Jacks, Kretz, Lias, McCoy, Nelson, Ormsby, Pearson, Van De Wege and Warnick.

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.

Staff: Jaclyn Ford (786-7339)

HOUSE COMMITTEE ON CAPITAL BUDGET

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Agriculture & Natural Resources. Signed by 15 members: Representatives Dunshee, Chair; Ormsby, Vice Chair; Warnick, Ranking Minority Member; Pearson, Assistant Ranking Minority Member; Anderson, Blake, Chase, Grant-Herriot, Hope, Jacks, Maxwell, McCune, Orwall, Smith and White.

Staff: Annie Pennucci (786-7142)

Background:

The Washington Forest Practices Board (Board) was established in 1975 by the Legislature under the state Forest Practices Act, and is charged with establishing rules to protect the state's natural resources while maintaining a viable timber industry.

The Board established by rule a Riparian Open Space Program that allows for the acquisition of lands within unconfined avulsing channel migration zones. An "unconfined avulsing stream" experiences abrupt shifts in channel location, creating a complex flood plain characterized by extensive gravel bars, disturbance species of variable age, numerous side channels, wall-based channels, oxbow lakes, and wetland complexes. An "unconfined avulsing channel migration zone" means the area within which the active channel of an unconfined avulsing stream is prone to move and where the movement would result in a potential near-term loss of riparian forest adjacent to the stream. The unconfined avulsing channel migration zone does not include areas permanently restricted from channel movement by a dike or levee.

Qualifying landowners can apply to donate or sell their land and/or timber in designated forest land that exists along migrating stream channels. They can also sell the state permanent conservation easements covering the timber and/or forest land. Once acquired, these lands may be held and managed by the Department of Natural Resources (DNR), transferred to another state agency, transferred to an appropriate local government agency, or transferred to a private nonprofit nature conservancy organization. The rules must provide for the management of the lands for ecological protection or fisheries enhancement.

The DNR manages certain lands for the benefit of the county where the lands are located. Revenue from these lands are divided between the county and the DNR.

The DNR is authorized to transfer or dispose of certain lands without public auction if the lands are 10 acres or less in size or valued at less than \$25,000, or if the transfer is designed to settle trespass issues or take the place of condemnation. Proceeds from any transfers are deposited into the Park Land Trust Revolving Fund and are used to buy replacement lands within the same county.

The DNR also manages the Trust Land Transfer Program (Program), which is typically authorized and funded in each biennial capital budget. The Program is generally used to reposition less productive lands with lands that can sustain a higher timber yield.

Summary of Second Substitute Bill:

The Board must establish by rule a program for the acquisition of riparian open space and critical habitat for threatened or endangered species as designated by the Board. At the landowner's option, acquisition may be of a fee interest or a conservation easement. Lands eligible for acquisition are forest lands within unconfined channel migration zones or forest lands containing critical habitat for threatened or endangered species as designated by the Board.

The DNR is authorized to transfer lands to another public agency without an auction if the lands are located in a county with a population of \$25,000 or less and if the lands are encumbered with timber harvest deferrals associated with wildlife species listed under the federal Endangered Species Act. To qualify, the timber deferrals in a county must be for a period of 30 years or longer.

Appraisals for the valuable materials located on the lands must be based on the fair market value of the land without consideration of the management or regulatory encumbrances. Any proceeds associated with the valuable materials located on the transferred lands must be distributed between the county where the transferred land is located and the DNR. The proceeds from real property that is transferred or disposed must be solely used to purchase replacement forest land that is actively managed as a working forest within the same county as the property transferred or disposed.

By October 31, 2010, the DNR must report to the Legislature the procedure and timeline, and the estimated costs of conducting the transfers from the qualifying counties. The report must assume that transfers will occur through the trust land transfer program, and that the transferred lands will become natural resource conservation areas.

Recommendations and estimates in the report must also assume that the land transfer will occur at a specified biennial rate designated to provide sustainable revenues to the affected counties and that the land and timber values will be distributed separately, with timber revenues directed to the county and land revenues use to fund future land purchases.

Appropriation: None.

Fiscal Note: Requested on March 2, 2009.

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

Staff Summary of Public Testimony (Agriculture & Natural Resources):

(In support) This bill is a result of a group of diverse interests collaborating on specific science-based recommendations for spotted owls on private lands. This is landmark

legislation that will have a great deal of impact. Landowners will benefit from having an endangered species on their land. This bill can be seen as an opportunity to protect species and give landowners an incentive to help with their recovery. This program reduces conflict between natural resource protection and landowners. This concept will support the industry in hard economic times.

(Opposed) None.

Staff Summary of Public Testimony (Capital Budget):

(In support) This bill improves incentives for landowners to protect endangered species such as the spotted owl. The program resolves conflicts between private landowners and conservation needs. The bill presents an opportunity to use an existing program with little fiscal impact.

(Opposed) None.

Persons Testifying (Agriculture & Natural Resources): Representative Van De Wege, prime sponsor; Shawn Cantrell, Seattle Audubon Society; Mark Doumit and Robert Meier, Washington Forest Protection Association; Nina Carter, Audubon Washington; Bridget Moran, Washington Department of Fish and Wildlife; and Peter Goldmark, Commissioner of Public Lands.

Persons Testifying (Capital Budget): Nina Carter, Washington Audubon; Dave Whipple, Washington Department of Fish and Wildlife; Debora Munguia, Washington Forest Protection Association; and Robert Meier, Rayonier.

Persons Signed In To Testify But Not Testifying (Agriculture & Natural Resources): None.

Persons Signed In To Testify But Not Testifying (Capital Budget): None.