

HOUSE BILL REPORT

SSB 5401

As Reported by House Committee On:
Agriculture & Natural Resources

Title: An act relating to habitat open space.

Brief Description: Expanding the riparian open space program to include lands that contain critical habitat of threatened or endangered species.

Sponsors: Senate Committee on Natural Resources, Ocean & Recreation (originally sponsored by Senators Morton, Jacobsen, Stevens, Ranker, Hatfield, Roach and Kline).

Brief History:

Committee Activity:

Agriculture & Natural Resources: 3/17/09, 3/26/09 [DPA].

**Brief Summary of Substitute Bill
(As Amended by House)**

- Expands the Riparian Open Space Program to include the acquisition of forest lands containing critical habitat for threatened or endangered species.
- Clarifies the compensation method for determining timber and land values under conservation easements.
- Applies existing tax exemptions for conservation easements acquired under the Riparian Open Space Program to forest lands containing critical habitat for threatened or endangered species.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: Do pass as amended. Signed by 13 members: Representatives Blake, Chair; Jacks, Vice Chair; Chandler, Ranking Minority Member; Smith, Assistant Ranking Minority Member; Grant-Herriot, Kretz, Liias, McCoy, Nelson, Ormsby, Pearson, Van De Wege and Warnick.

Staff: Jaclyn Ford (786-7339)

Background:

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 Washington Forest Practices Board (Board) was established in 1975 by the Legislature under the state Forest Practices Act. The Board 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.

Summary of Amended 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. Acquisition must be 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.

For conveyances of a conservation easement in which the landowner conveys an interest in the trees only, compensation must include the timber value component, as determined by the cruised volume of any timber located within the channel migration zone or critical habitat for threatened or endangered species as designated by the Board, multiplied by the appropriate stumpage value for timber of the same species.

For conveyances of a conservation easement in which the landowner conveys interests in both land and trees, compensation must include the timber value plus such portion of the land value component as determined just and equitable by the DNR. The land value component must be the acreage to be conveyed of qualifying channel migration zone or critical habitat for threatened or endangered species as determined by the Board, multiplied by the average per acre value of all commercial forest land in western Washington or the average for eastern

Washington, whichever is applicable to the qualifying lands. The DNR must determine the western and eastern Washington averages.

Existing tax exemptions for conservation easements acquired under the Riparian Open Space Program must now be extended to forest lands containing critical habitat for threatened or endangered species.

Amended Bill Compared to Original Bill:

The amended bill added a description of the compensation required when conveying conservation easements.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: 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 was a collaborative process and is supported by many stakeholders. This bill will advance protection of the spotted owl and gives incentives to landowners. Landowners will want to have endangered species on their land, or grow habitat for them. There may be an additional amendment regarding the compensation for conservation easements.

(Opposed) None.

Persons Testifying: Senator Morton, prime sponsor; Robert Meier, Rayonier; Heath Packard, Department of Natural Resources; Mark Doumit, Washington Forest Protection Association; and Bridget Moran, Washington Department of Fish and Wildlife.

Persons Signed In To Testify But Not Testifying: None.