

HOUSE BILL REPORT

SHB 1985

As Passed House

March 15, 1997

Title: An act relating to forest practices landscape management plan pilot projects.

Brief Description: Allowing for pilot project landscape management plans.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Buck, Regala, Sump, Pennington, Sheldon, Hatfield, Anderson, Butler and Dyer).

Brief History:

Committee Activity:

Natural Resources: 2/25/97 [DP];

Appropriations: 3/7/97 [DPS].

Floor Activity:

Passed House: 3/15/97, 95-0.

HOUSE COMMITTEE ON NATURAL RESOURCES

Majority Report: Do pass. Signed by 10 members: Representatives Buck, Chairman; Sump, Vice Chairman; Thompson, Vice Chairman; Regala, Ranking Minority Member; Butler, Assistant Ranking Minority Member; Alexander; Anderson; Hatfield; Pennington and Sheldon.

Staff: Linda Byers (786-7129).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 29 members: Representatives Huff, Chairman; Alexander, Vice Chairman; Clements, Vice Chairman; Wensman, Vice Chairman; H. Sommers, Ranking Minority Member; Doumit, Assistant Ranking Minority Member; Gombosky, Assistant Ranking Minority Member; Benson; Carlson; Chopp; Cody; Cooke; Crouse; Dyer; Grant; Keiser; Kenney; Kessler; Linville; Lisk; Mastin; McMorris; Parlette; Regala; D. Schmidt; Sehlin; Sheahan; Talcott and Tokuda.

Staff: Nancy Stevenson (786-7137).

Background: The state's forest practices statutes call for the protection of forest soils, fisheries, wildlife, water quantity and quality, air quality, recreation, and scenic beauty, coincident with the maintenance of a viable forest products industry. Some forest practices rules address the protection of public resources,– which are defined as water, fish and wildlife, and capital improvements of the state or its political subdivisions.

Currently, the standard process for conducting forest management activities such as timber harvesting is to submit an application requesting to conduct the forest practice to the Department of Natural Resources. The department reviews the application to see if it complies with the state's forest practices rules. If the department approves the application, the approval is normally in effect for a period of two years.

Summary of Bill: The bill states that landowners and resource managers should be provided incentives to voluntarily develop long-term multispecies landscape management plans that will provide protection to public resources. Because landscape planning represents a departure from the use of standard baseline rules and may result in unintended consequences to both the affected habitats and to a landowner's economic interests, the Legislature desires to establish up to seven experimental pilot programs in order to gain experience with landscape planning that may prove useful in fashioning legislation of a more general application.

Until December 31, 2000, the Department of Natural Resources has authority to select not more than seven pilot projects for the purpose of developing individual landowner multispecies landscape management plans. The department will act in cooperation with the Department of Fish and Wildlife and, when relating to water quality protection, the Department of Ecology. When choosing the number and location of pilot projects, the agencies will consider factors such as the risk to the habitat and species, the variety and importance of species and habitats in the planning area, geographic distribution, surrounding ownership, other landscape planning and watershed planning activities in the area, potential benefits to water quantity and quality, and the financial and staffing capabilities of participants.

Each pilot project must have a landscape management plan that contains certain required elements. Required elements include identification of the public resources selected for coverage under the plan and measurable objectives for the protection of these resources; a termination date of not later than 2050; identification of the forest practices rules that will not apply during the term of the plan; proposed habitat management strategies or prescriptions; provisions for monitoring, reporting and adaptive management; and conditions under which a plan may be modified or terminated.

Until December 31, 2000, the agencies will approve a landscape management plan and enter into a binding implementation agreement with the landowner when the agencies find that, based upon the best scientific data available,

- the plan contains all of the required elements including measurable public resources objectives;
- the plan is expected to be effective in meeting those objectives;
- the landowner has sufficient financial resources to implement the management strategies or prescriptions called for in the plan;
- the plan will provide better protection than current state law for the public resources selected for coverage under the plan considered in the aggregate and, when compared to conditions that would result from compliance with current state law, will not result in poorer habitat conditions over the life of the plan for any threatened, endangered, or candidate species selected for coverage in the plan, and will measurably improve habitat conditions for species selected for special consideration under the plan;
- The plan includes watershed analysis or provides for a level of protection that meets or exceeds the protection that would be provided by watershed analysis, if the landowner selects fish or water quality as a public resource to be covered under the plan; and
- The planning process provides for a public participation process, which will be developed by the department in cooperation with the landowner.

The department must provide an opportunity for public comment on the proposed plan for not less than 45 days. The department must approve or reject a proposed plan within 120 days of submittal of the plan. The department's decision to approve or disapprove a plan is subject to review under the State Environmental Policy Act (SEPA) and to appeal to the Forest Practices Appeals Board.

Once a landscape management plan is adopted, the department is authorized to issue a single landscape level permit which is valid for the life of the plan. A landowner who receives a landscape level permit must meet annually with the state agencies to review the forest practices activities planned for the next 12 months and to determine whether such activities are in compliance with the plan. The state agencies will consult with affected Indian tribes and other parties who have expressed an interest in connection with the review. Forest practices that are consistent with the plan need not comply with the specific state forest practices rules identified in the plan, nor with certain new forest practices rules adopted after the approval of the plan. For SEPA purposes, forest practices conducted in compliance with an approved plan are deemed

not to have the potential for a substantial impact on the environment as to any public resource selected for coverage in the plan. If a landowner has selected fish as one of the public resources covered under the plan, then the approved plan will serve as hydraulic project approval from the Department of Fish and Wildlife for the life of the plan. Except as otherwise provided in the plan, the agreement implementing the landscape management plan is an agreement that runs with the property covered by the approved plan.

The state agencies will seek to develop memorandums of agreement with federal agencies and affected Indian tribes that relate to tribal issues in the landscape management plans. The agencies will solicit input from affected Indian tribes in connection with the selection, review, and approval of any landscape management plan. If any recommendation from an affected Indian tribe is not adopted by the agencies, the agencies will provide a written explanation of their reasons for not adopting the recommendation.

Pilot project participants will be selected no later than October 1, 1997. Management plans must be submitted to the state agencies no later than March 1, 2000. The Department of Natural Resources must report to the state Forest Practices Board annually on the status of each pilot project. The department will provide to the board by December 31, 2000, an evaluation of the pilot projects, including a determination about whether a permanent landscape planning process should be established, and a discussion of what legislative and rule modifications are necessary. The state agencies will develop a suitable process, jointly issued by the agencies, to permit landowners to secure all permits required for the conduct of forest practices in a single multi-year permit. The agencies will report to the Legislature on their efforts no later than December 31, 2000.

Appropriation: None.

Fiscal Note: Available.

Effective Date Ninety days after adjournment of session in which bill is passed. However, the bill is null and void unless funded in the budget.

Testimony For: (Natural Resources) This proposal is a product of the Timber-Fish-Wildlife cooperators. The bill which provides an opportunity for landowners to develop landscape plans at the state level to complement related efforts at the federal level. This will allow landowners to gain state-level regulatory certainty and will provide for one-stop permit shopping. Forest landowners are ready to participate in this pilot process. Hopefully, they will be back before the Legislature in 2001 reporting on their successes. While the bill provides certainty for the timber industry, it also provides certainty for those interested in fish and wildlife. This moves comprehensive planning forward in a way that the coalition is comfortable with. The

inclusion of adaptive management and watershed analysis will allow the plans to go where the truth is in the future. The state agencies will need resources to make this work. The bill represents a critical step in the evolution of forest practices regulation. The long-term vision is to move toward a landscape-based approach and away from the current site-by-site prescriptive approach, and this bill fits in with that move. The bill represents true regulatory reform. This will be a good public/private partnership. The permit consolidation and the longer-term view are good examples of regulatory reform. Forest landowners should be rewarded for doing good things for fish and wildlife. This will represent the only state-based planning of this type happening in the nation. While there are risks involved in this approach for fish and wildlife, the department is willing to take these risks. Fundamental to the proposal is a building of trust among the various parties involved in this effort. This will allow forest land managers to manage habitat for groups of species rather than for individual species. It allows for the management of forest lands across time and space. It also addresses the disincentives present in the current system to growing wildlife habitat. The intent is to provide regulatory certainty over the long-term.

(Appropriations) This is an opportunity for the state to take action before more endangered species are listed. The seven pilots done concurrently with habitat conservation plans will protect state-based decision making. This direction is strongly supported. It is the vision for the long term. This is true regulatory reform. However, there is a cost. If there is not enough money, consider doing fewer pilots. The Department of Natural Resources estimates a cost of three FTEs for three years and needs funding in order to be able to implement the pilots. The Department of Ecology supports this approach and estimates a cost of 1.5 FTEs and \$200,000. The Department of Fish and Wildlife (DFW) estimates a cost of \$360,000 per year. The DFW supports doing all seven pilots. With fewer projects it is harder to have sufficient data to write a rule for the long term. Full implementation and financing is encouraged. This bill provides certainty on a government-to-government basis.

Testimony Against: (Natural Resources) None.

(Appropriations) None.

Testified: (Natural Resources) Tim Boyd, Washington Forest Protection Association; Jim Anderson, Northwest Indian Fisheries Commission; Art Stearns, Department of Natural Resources; Dick Wallace, Department of Ecology; Rollie Geppert, Department of Fish and Wildlife; Ron Shultz, Audubon Society; Cassie Phillips, Weyerhaeuser; Steve Tveit, Boise Cascade; John Warjone, Port Blakely Tree Farms; Wade Boyd, Longview Fibre; and Keith Simmons, Simpson Timber (all in favor).

(Appropriations) Representative Buck, prime sponsor; Tim Boyd, Washington Forest Protection Association; Scott Merriman, Washington Environmental Council; Art

Stearns, Department of Natural Resources; Rollie Geppert, Department of Fish & Wildlife; David Roberts, Department of Ecology; and Steve Robinson, Northwest Indian Fisheries Commission