

SENATE BILL REPORT

E2SHB 3049

As Reported By Senate Committee On:
Agriculture & Environment, February 26, 1998

Title: An act relating to watershed planning and alternative project mitigation strategies.

Brief Description: Providing for watershed planning and project mitigation.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Linville, Chandler, Fisher, Mastin, Murray, Romero, Gardner, Robertson, Regala, K. Schmidt, Mitchell, Huff, Cooper, Scott, Tokuda, Mason, Ogden, Kenney and Morris).

Brief History:

Committee Activity: Agriculture & Environment: 2/25/98, 2/26/98 [DPA-WM].

SENATE COMMITTEE ON AGRICULTURE & ENVIRONMENT

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.
Signed by Senators Morton, Chair; Swecker, Vice Chair; Oke and Rasmussen.

Staff: Kari Guy (786-7437)

Background: Mitigation means sequentially avoiding impacts, minimizing impacts, or compensating for remaining unavoidable impacts. Environmental mitigation may be required by federal, state and local agencies under laws that address water quality, water resources, wetlands, endangered species, or other natural resources.

Currently, a project proponent may propose a mitigation plan that provides for the restoration or enhancement of wetlands, uplands, or other aquatic resources. The mitigation plan may propose mitigation on or off the project site, and may propose to compensate for project impacts with the same or different biological functions or values. State agencies may approve the mitigation plan if the agencies determine that the plan provides equal or better biological functions and values when compared with existing conditions.

It has been suggested that watershed planning groups and state agencies need a common framework for developing and evaluating alternative mitigation proposals.

Summary of Amended Bill: The Department of Transportation, the Department of Fish and Wildlife, and the Department of Ecology are directed to co-chair a work group to develop a framework for evaluating mitigation alternatives within and between watershed resources. Resources to be considered include wetlands, threatened and endangered species and their habitats, fish passage, storm water, flooding, water quality, water quantity, or any other resources identified by a watershed group. The framework developed by the work group must reconcile state and federal resource protection laws with watershed-based priorities.

The work group also must develop guidance for determining alternative mitigation opportunities. The guidance must create procedures that provide for mitigation with a low risk to the environment, but a high net environmental, social, and economic benefit compared to status quo options. The guidance may be applied to a mitigation project at the discretion of the project proponent.

The work group must seek technical assistance from a variety of stakeholders and existing committees and work groups, including the Wetland Strategic Plan Implementation Committee, the Storm Water Technical Work Group, the Fish Passage Barrier Removal Task Force, the Flood Emergency Permit Streamlining Work Group, and the Water-Endangered Species Act Work Group.

The work group must evaluate data requirements, decision-making framework, state agency coordination, permitting, and appropriate watershed scale as elements of mitigation. In analyzing alternative mitigation, the work group must consider the following:

- The abundance and quality of the resource impacted;
- The relative value of the mitigation for the critical watershed resources;
- The compatibility of the proposal with the intent of broader watershed management objectives and plans;
- The ability of the mitigation to address scarce functions or values within a watershed;
- The benefits of the proposal to broader watershed goals such as connecting various habitat units;
- The benefits of early implementation habitat mitigation prior to the impacts of a planned project;
- The significance of negative impacts to nontarget species or resources;
- Social and economic impacts to communities within the watershed;
- Expected future development and infrastructure changes; and
- Systems to track and prioritize deferred resource impacts for potential future mitigation.

The Department of Ecology, Department of Fish and Wildlife, and Department of Transportation must seek opportunities to implement the guidance and report on the progress of the work group each year to the Legislature.

Watershed plans should identify and prioritize creation, restoration, and enhancement and preservation opportunities that may be used. Alternative mitigation strategies should be guided by priority goals identified in the watershed plan, and should be based upon the best available science. Watershed plans should include a geographic-information-systems data base of prioritized restoration and enhancement projects and activities, and a data base should be maintained to track resource gains and losses under the watershed plan

Amended Bill Compared to Substitute Bill: It is specified that guidance is voluntary and may be applied at the discretion of the project proponent.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Mitigation guidance will provide certainty for project proponents. The guidance will streamline permit decisions, improve environmental restoration, and assist local watershed groups in developing watershed plans.

Testimony Against: The state should be requiring avoidance first, with mitigation only as a last result. Use of the guidance by project proponents should be optional.

Testified: Representative Linville, prime sponsor (pro); Jerry Alb, WSDOT (pro); Eric Johnson, WA Public Ports Association (pro w/amendments); Tom Mark, Ecology (pro); Ron Shultz, Audubon Society (concerns); Steve Wehrly, Muckelshoot Tribe (concerns).