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**Agriculture & Natural  
Resources Committee**

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**ESSB 5352**

**Brief Description:** Encouraging agricultural land use conservation programs.

**Sponsors:** Senate Committee on Agriculture (originally sponsored by Senators Haugen, Swecker, Doumit, Morton, Rasmussen, Hargrove, Horn and Shin).

**Brief Summary of Engrossed Substitute Bill**

- Specifies development regulations adopted according to the Growth Management Act may not preclude designated natural resource lands' eligibility for local, state, or federal conservation programs.
- Requires counties and cities with designated agricultural lands to allow wineries and affiliated or accessory uses within agricultural lands designations.
- Allows designated agricultural lands to return to designated agricultural uses when a conservation program contract period expires.
- Adds enrollment in the Conservation Reserve Enhancement Program (CREP) to the definition of "agricultural activities" in the Shoreline Management Act.
- Includes requirements for administration and implementation of the CREP in Washington.

**Hearing Date:** 4/1/03

**Staff:** Caroleen Dineen (786-7156).

**Background:**

Growth Management Act

The Growth Management Act (GMA) establishes a comprehensive land use planning framework for local governments in Washington. The GMA requires a county and its cities to plan if the county meets certain population and growth criteria. All counties and cities must satisfy certain GMA requirements, including:

- identifying and protecting "critical areas," defined to include wetlands, critical aquifer recharge areas, habitat conservation areas, frequently flooded areas, and geologically hazardous areas; and
- identifying natural resource lands, including agricultural, forest, and mineral resource lands.

The 29 counties (and their cities) that plan under the major GMA requirements (GMA jurisdictions) also must:

- conserve natural resource lands with long-term commercial significance;
- adopt county-wide planning policies, used to create a planning framework for county and city comprehensive plans;
- designate urban growth areas, within which urban growth is encouraged and outside of which urban growth is prohibited;
- adopt comprehensive plans, including general land use policies; and
- adopt implementing development regulations.

### Shoreline Management Act

The Shoreline Management Act (SMA) governs uses of shorelines of the state. "Shorelines of the state" are defined to include both "shorelines" and "shorelines of statewide significance" as defined by the SMA. The SMA requires counties and cities with shorelines of the state to adopt local shoreline master programs regulating land use activities in shoreline areas and to enforce those programs within their jurisdictions. The Department of Ecology (DOE) is required to adopt state shoreline master program guidelines for local governments to use when developing their master programs and to approval locally adopted master programs.

In 2002 the Legislature added provisions to the SMA to define agricultural activities on agricultural lands. The 2002 legislation also specified the DOE's guidelines and local master programs based on those guidelines may not require modification of or limit agricultural activities occurring on agricultural lands. The 2002 legislation further required master programs to address new agricultural activities on land not meeting the SMA's definition of "agricultural land," conversion of agricultural lands to other uses, and development not meeting the SMA's definition of "agricultural activities."

### Conservation Programs

Conservation districts conduct activities related to conservation of renewable natural resources. Some conservation district programs and activities include research, surveys, investigations, educational programs, and technical assistance. Conservation districts are assisted and their programs are coordinated by the Conservation Commission, a state agency.

The Conservation Reserve Program (CRP) is a federal program administered by the federal Farm Service Agency (FSA) on behalf of the Commodity Credit Corporation. CRP is a voluntary program offering rental, incentive, and maintenance payments as well as cost-share assistance to establish approved long-term, resource conserving cover to improve soil, water, and wildlife resources. Eligible land includes crop land and pasture land meeting specified

requirements.

The state Conservation Reserve Enhancement Program (CREP) is a part of the CRP and designed to establish forested buffers along eligible streams to address salmon habitat, improve water quality, and increase stream stability. This voluntary program is administered in Washington by the FSA and the state Conservation Commission, which makes grants to local conservation districts to implement the program. Land enrolled in CREP is removed from agricultural production and grazing according to 10-15 year contracts. In exchange, land owners may receive annual rental, incentive, maintenance, and cost-share payments.

Eligible streams under CREP are those for which riparian habitat is a limiting factor for salmon and steelhead listed under the federal Endangered Species Act. Eligible land must be located parallel and adjacent to an eligible stream, have a certain cropping history, and be able to support trees and shrubs.

### **Summary of Bill:**

#### Growth Management Act

No county may adopt development regulations under the state Growth Management Act (GMA) to conserve natural resource lands that directly or indirectly preclude land from qualifying for enrollment in the CREP or equivalent conservation program. Enrolling designated agricultural land or allowing such land to remain in a local, state, or federal conservation program such as CREP or the Conservation Reserve Program (CRP) during the contract or extension term is not a violation of the agricultural lands designation. Any designated agricultural lands may return to designated agricultural use when the conservation program contract or extension period expires unless a permanent easement has been acquired.

Each county and city with lands designated according to the GMA as agricultural lands of long-term commercial significance must allow wineries, affiliated and ancillary tasting rooms, and accessory uses as permitted uses acceptable and compatible with other agricultural-related industries. These types of uses may be restricted only in a manner uniformly applied to all permitted uses in agricultural zoning classifications.

#### Shoreline Management Act

"Agricultural activities" as defined in the Shoreline Management Act includes enrolling and/or allowing land used for agricultural activities to remain in a local, state, or federal conservation program, such as the CRP or CREP, for the duration of the program contract and any subsequent extensions.

#### Conservation Programs

The policy-making entity under the conservation district statutes may enter into agreements with the Commodity Credit Corporation of the United States Department of Agriculture to implement a conservation reserve enhancement program to assist in restoring or enhancing habitat for salmonids listed under the federal Endangered Species Act. "Policy-making entity" is defined as the lead state person or body designated in the conservation districts

chapter to establish policy and oversee programs. The policy-making entity also is the sole state contact with the United States Department of Agriculture and members of Congress with respect to CREP implementation policies.

The policy-making entity's goal is to maximize the number of miles of stream habitat benefitted while minimizing the total number of acres of agricultural land taken out of production. The policy-making entity must offer as an alternative the national standard for conservation practice 391, the riparian forest buffer, as established by the federal Natural Resources Conservation Service. The policy-making entity is encouraged to examine other states' CREPs and studies regarding how to increase participation and reduce overall costs. The entity also must examine how other states have incorporated the option of a permanent easement.

The CREP must continue to be delivered by conservation districts. If sufficient funds are not appropriated to meet the program's demands, conservation districts may apply for additional funding to the Salmon Recovery Funding Board.

**Appropriation:** None.

**Fiscal Note:** Not Requested.

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