
SENATE BILL 5352

State of Washington

58th Legislature

2003 Regular Session

By Senators Haugen, Swecker, Doumit, Morton, Rasmussen, Hargrove, Horn and Shin

Read first time 01/22/2003. Referred to Committee on Agriculture.

1 AN ACT Relating to agricultural conservation programs; amending RCW
2 90.58.065, 36.70A.060, and 36.70A.170; and adding a new section to
3 chapter 15.04 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 15.04 RCW
6 to read as follows:

7 The department is authorized to enter into agreements with the
8 commodity credit corporation of the United States department of
9 agriculture to implement a conservation reserve enhancement program to
10 assist in the restoration or enhancement of habitat for salmonids that
11 have been listed as threatened or endangered species under the federal
12 endangered species act and/or the improvement of water quality. The
13 program shall continue to be delivered by conservation districts
14 organized under chapter 89.08 RCW.

15 The department is encouraged to examine conservation reserve
16 enhancement programs offered in other states and to examine studies
17 conducted by other states on how to increase the rate of participation
18 in the program while reducing overall costs.

1 Among the alternatives that shall be offered in the state of
2 Washington, the department shall include one that has a minimum buffer
3 that is no larger than offered in a neighboring state that shares a
4 common environmentally significant unit with the state of Washington.
5 This alternative shall be available for enrollment no later than August
6 1, 2003.

7 In administering this program, the goal of the department shall be
8 to maximize the number of miles of stream habitat that are benefited by
9 the program while minimizing the total number of acres of agricultural
10 land that are taken out of production. Additionally, the director
11 shall examine how other states have incorporated the option of a
12 permanent easement that continues beyond the contract period.

13 If sufficient funds are not appropriated to the department to meet
14 the demand for the program, conservation districts may apply for
15 additional funding to the salmon recovery funding board.

16 The director, in consultation with the governor, shall be the sole
17 contact person for the state of Washington with the United States
18 department of agriculture and members of congress in regards to
19 developing successful policies for implementation of the conservation
20 reserve enhancement program in the state of Washington.

21 **Sec. 2.** RCW 90.58.065 and 2002 c 298 s 1 are each amended to read
22 as follows:

23 (1) The guidelines adopted by the department and master programs
24 developed or amended by local governments according to RCW 90.58.080
25 shall not require modification of or limit agricultural activities
26 occurring on agricultural lands. In jurisdictions where agricultural
27 activities occur, master programs developed or amended after June 13,
28 2002, shall include provisions addressing new agricultural activities
29 on land not meeting the definition of agricultural land, conversion of
30 agricultural lands to other uses, and development not meeting the
31 definition of agricultural activities. Nothing in this section limits
32 or changes the terms of the current exception to the definition of
33 substantial development in RCW 90.58.030(3)(e)(iv). This section
34 applies only to this chapter, and shall not affect any other authority
35 of local governments.

36 (2) For the purposes of this section:

1 (a) "Agricultural activities" means agricultural uses and practices
2 including, but not limited to: Producing, breeding, or increasing
3 agricultural products; rotating and changing agricultural crops;
4 allowing land used for agricultural activities to lie fallow in which
5 it is plowed and tilled but left unseeded; allowing land used for
6 agricultural activities to lie dormant as a result of adverse
7 agricultural market conditions; allowing land used for agricultural
8 activities to lie dormant because the land is enrolled in a local,
9 state, or federal conservation program, or the land is subject to a
10 conservation easement; enrolling and/or allowing land to remain in a
11 local, state, or federal conservation program, such as the conservation
12 reserve program or the conservation reserve enhancement program, for
13 the duration of the contract and subsequent extensions; conducting
14 agricultural operations; maintaining, repairing, and replacing
15 agricultural equipment; maintaining, repairing, and replacing
16 agricultural facilities, provided that the replacement facility is no
17 closer to the shoreline than the original facility; and maintaining
18 agricultural lands under production or cultivation;

19 (b) "Agricultural products" includes but is not limited to
20 horticultural, viticultural, floricultural, vegetable, fruit, berry,
21 grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or
22 forage for livestock; Christmas trees; hybrid cottonwood and similar
23 hardwood trees grown as crops and harvested within twenty years of
24 planting; and livestock including both the animals themselves and
25 animal products including but not limited to meat, upland finfish,
26 poultry and poultry products, and dairy products;

27 (c) "Agricultural equipment" and "agricultural facilities"
28 includes, but is not limited to: (i) The following used in
29 agricultural operations: Equipment; machinery; constructed shelters,
30 buildings, and ponds; fences; upland finfish rearing facilities; water
31 diversion, withdrawal, conveyance, and use equipment and facilities
32 including but not limited to pumps, pipes, tapes, canals, ditches, and
33 drains; (ii) corridors and facilities for transporting personnel,
34 livestock, and equipment to, from, and within agricultural lands; (iii)
35 farm residences and associated equipment, lands, and facilities; and
36 (iv) roadside stands and on-farm markets for marketing fruit or
37 vegetables; and

1 (d) "Agricultural land" means those specific land areas on which
2 agriculture activities are conducted.

3 (3) The department and local governments shall assure that local
4 shoreline master programs use definitions consistent with the
5 definitions in this section.

6 **Sec. 3.** RCW 36.70A.060 and 1998 c 286 s 5 are each amended to read
7 as follows:

8 (1) Each county that is required or chooses to plan under RCW
9 36.70A.040, and each city within such county, shall adopt development
10 regulations on or before September 1, 1991, to assure the conservation
11 of agricultural, forest, and mineral resource lands designated under
12 RCW 36.70A.170. Regulations adopted under this subsection may not
13 prohibit uses legally existing on any parcel prior to their adoption
14 and shall remain in effect until the county or city adopts development
15 regulations pursuant to RCW 36.70A.040. Such regulations shall assure
16 that the use of lands adjacent to agricultural, forest, or mineral
17 resource lands shall not interfere with the continued use, in the
18 accustomed manner and in accordance with best management practices, of
19 these designated lands for the production of food, agricultural
20 products, or timber, or for the extraction of minerals. Counties and
21 cities shall require that all plats, short plats, development permits,
22 and building permits issued for development activities on, or within
23 five hundred feet of, lands designated as agricultural lands, forest
24 lands, or mineral resource lands, contain a notice that the subject
25 property is within or near designated agricultural lands, forest lands,
26 or mineral resource lands on which a variety of commercial activities
27 may occur that are not compatible with residential development for
28 certain periods of limited duration. The notice for mineral resource
29 lands shall also inform that an application might be made for mining-
30 related activities, including mining, extraction, washing, crushing,
31 stockpiling, blasting, transporting, and recycling of minerals.

32 (2) Each county and city shall adopt development regulations that
33 protect critical areas that are required to be designated under RCW
34 36.70A.170. For counties and cities that are required or choose to
35 plan under RCW 36.70A.040, such development regulations shall be
36 adopted on or before September 1, 1991. For the remainder of the

1 counties and cities, such development regulations shall be adopted on
2 or before March 1, 1992.

3 (3) No county shall adopt development regulations under this
4 chapter that directly or indirectly preclude a person owning land from
5 being able to qualify for enrollment of a parcel or a portion of any
6 parcel in the conservation reserve enhancement program, or equivalent
7 program that provides for the restoration or enhancement of fish and
8 wildlife habitat and/or the improvement of water quality.

9 (4) Such counties and cities shall review these designations and
10 development regulations when adopting their comprehensive plans under
11 RCW 36.70A.040 and implementing development regulations under RCW
12 36.70A.120 and may alter such designations and development regulations
13 to insure consistency.

14 ~~((4))~~ (5) Forest land and agricultural land located within urban
15 growth areas shall not be designated by a county or city as forest land
16 or agricultural land of long-term commercial significance under RCW
17 36.70A.170 unless the city or county has enacted a program authorizing
18 transfer or purchase of development rights.

19 **Sec. 4.** RCW 36.70A.170 and 1990 1st ex.s. c 17 s 17 are each
20 amended to read as follows:

21 (1) On or before September 1, 1991, each county, and each city,
22 shall designate where appropriate:

23 (a) Agricultural lands that are not already characterized by urban
24 growth and that have long-term significance for the commercial
25 production of food or other agricultural products;

26 (b) Forest lands that are not already characterized by urban growth
27 and that have long-term significance for the commercial production of
28 timber;

29 (c) Mineral resource lands that are not already characterized by
30 urban growth and that have long-term significance for the extraction of
31 minerals; and

32 (d) Critical areas.

33 (2) In making the designations required by this section, counties
34 and cities shall consider the guidelines established pursuant to RCW
35 36.70A.050.

36 (3) Enrolling land designated by a county as agricultural land of
37 long-term commercial significance and/or allowing such land to remain

1 in a local, state, or federal conservation program, such as the
2 conservation reserve program or the conservation reserve enhancement
3 program, for the duration of the contract and subsequent extensions
4 shall not be considered to be in violation of its designation as
5 agricultural land of long-term commercial significance. After
6 expiration of the contract and subsequent extensions, land enrolled in
7 such programs shall be allowed to return to its designated agricultural
8 use unless a permanent easement has been acquired.

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