HOUSE BILL REPORT
HB 1404

As Reported by House Committee On:
Natural Resources, Ecology & Parks

Title: An act relating to forest practices.

Brief Description: Requiring certain local governments to regulate forest practices.

Sponsors: Representatives B. Sullivan, Hinkle, Kretz, Upthegrove and Buck.

Brief History:
Committee Activity:
Natural Resources, Ecology & Parks: 2/10/05, 2/22/05 [DPS].

Brief Summary of Substitute Bill

- Removes the current December 31, 2005 deadline for the adoption of ordinances by local governments for approvals of class IV forest practices.
- Requires certain local governments to adopt ordinances that allows the authority to approve or disapprove forest practices to transfer from the Department of Natural Resources to the local government by January 1, 2008.

HOUSE COMMITTEE ON NATURAL RESOURCES, ECOLOGY & PARKS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives B. Sullivan, Chair; Upthegrove, Vice Chair; Buck, Ranking Minority Member; Blake, Dickerson, Eickmeyer and Williams.

Minority Report: Do not pass. Signed by 3 members: Representatives Kretz, Assistant Ranking Minority Member; DeBolt and Orcutt.

Staff: Jason Callahan (786-7117).

Background:

Classes of forest practices

Prior to conducting a harvest or most other silvicultural treatments on forest land, a forest landowner must apply to the Department of Natural Resources (DNR) for approval for the proposed forest practice. The application process and application fee required varies depending on what class of forest practice is proposed. A forest practice can fall into one of four classes:

- **Class I forest practices** have a minimal direct potential for damaging a public resource. Most class I practices do not require pre-approval by the DNR.

- **Class II forest practices** have a less than ordinary potential for damaging a public resource. Class II practices require notification to be given to the DNR, but does not require a formal approval.

- **Class III forest practices** are silvicultural treatments that do not fit into the definition of the other classes of forest practices. They have a higher potential to damage a public resource than class II practices, but a lesser potential than class IV practices. Class III forest practices *do* require pre-approval from the DNR.

- **Class IV forest practices** have a potential for substantial impact on the environment. This includes harvesting within an urban growth area and harvesting in an area that is likely to be developed into a non-forestry use. Class IV practices require pre-approval by the DNR in some cases, and by local governments in other cases.

The role of local governments in forest practices approvals

Counties and cities have the authority to approve or disapprove certain class IV forest practices applications. In order to assume approval authority, the county or city must adopt ordinances that establish minimum standards for class IV forest practices, establish the necessary administrative provisions, and set procedures for the collection of fees. All cities and counties are required to adopt the necessary ordinances for class IV forest practices approval by December 31, 2005.

The authority to approve or disapprove class IV forest practices applications does not pass from the DNR to the city or county until the DNR has granted final approval of the city or county's ordinances. In conducting a review of the local government's proposed ordinances, the DNR is required to consult with the Department of Ecology, and may disapprove the ordinance wholly, or in part. Local governments that believe a disapproval of their ordinances was improper may appeal the DNR's decision to the Forest Practices Appeal Board.

Counties and cities that adopt the necessary ordinances to obtain control over class IV forest practices approvals, and have those ordinances approved by the DNR, are eligible for technical assistance from the DNR until January 1, 2006.

Summary of Substitute Bill:

The process for transferring authority to approve or disapprove forest practices applications is repealed. A new mechanism with new dates is established. Some counties and cities are required to adopt forest practices approval ordinances by the end of 2007, while the other counties and cities retain the discretion to not assume the responsibility for approving forest practices. The requirements on local governments vary depending on whether a county plans under the Growth Management Act (GMA), although the path for transferring jurisdiction remains constant across all counties.

Mandatory vs. discretionary

Some counties and cities are required to adopt and enforce ordinances or regulations for the approval of forest practices applications, while the assumption of this responsibility is optional for other local governments. The trigger for determining if a county or city is required to adopt these ordinances is the number of forest practices applications that have been submitted within the county for the time period between January 1, 2000 and December 31, 2002.

If more than 25 class IV applications had been filed to the DNR between those dates for properties within a specific county, then that county, and the cities within it, are required to adopt forest practices approval ordinances. If the number is less than 25, then the transfer of jurisdiction for approvals is optional for the county and its cities.

In determining the number of class IV applications filed within a county, only certain applications are counted. Those counted are limited to applications for class IV practices on lands platted in 1960 or later, lands that have been converted to a non-forestry use, lands that will not be replanted because of a likelihood of conversion to a non-forestry use, and lands within an urban growth area.

GMA counties vs. Non-GMA counties

Although the 25-application trigger for mandatory assumption of jurisdiction over forest practices approvals is consistent for all counties, the requirements for counties differ depending on a particular county's participation under the GMA.

Counties *not* planning under the GMA, and the cities within them, only are required to assume the jurisdiction for approving class IV forest practices on lands platted later than 1959, lands that are not to be reforested because of the likelihood of future urban development, and lands that are already in the process of being converted to a non-forestry use.

Counties that *do* plan under the GMA, and their cities, are required to adopt ordinances covering class IV forest practices applications on the same lands that non-GMA counties must address, as well as ordinances for the approval or all four class types of forest practices when those applications are submitted for land located within an urban growth area.

The only land that GMA-planning counties and cities are not required to assume the jurisdiction over are ownerships of 20 contiguous acres or more. However, the 20-acre exception only applies if the owner of the property submits a written statement to the county and the DNR that he or she does not intend to convert the property to a non-forestry use for the coming decade. The owner' s written statement must be accompanied by both a written forest management plan that is acceptable to the DNR, and documentation that the land is enrolled, for the purposes of property taxes, as forest land of long-term significance.

Pre-requisites for a transfer of jurisdiction

The ordinances adopted by the counties and cities must require appropriate approvals for all phases of forest land conversion and procedures for the collection of all administrative and

permit fees. Development regulations must also be adopted that protect public resources from material damage and requires appropriate approvals for all phases of forest land conversion, and the local jurisdiction must ensure consistency between its comprehensive plan and the new development regulations.

A county or city can not assume the jurisdiction for forest practices approvals without bringing their critical areas and development regulations in compliance with the current requirements and notifying both the DNR and the Department of Ecology at least 60 days before adoption of the necessary ordinances. However, neither department must approve of the ordinances before the jurisdictional transfer occurs.

Role of the DNR

Exclusive jurisdiction over forest practices approvals remains with the DNR until a county or city satisfies all requirements for the jurisdictional transfer, even after the date by which all counties must have the appropriate ordinances adopted. The DNR is also required to provide technical assistance to the cities and counties during and after the process of ordinance adoption.

Substitute Bill Compared to Original Bill:

The substitute bill specifies that cities and counties that have already adopted ordinances for forest practices are not required to re-adopt those ordinances, and that forest practices being regulated by a local government are subject to the regulations of that local government and are not subject to the Forest Practice Rules.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: (In support of original bill) There are concerns with the current 2005 date and processes for transferring class IV approvals to local governments, although it is still believed that the local governments should take over permitting when land is not going to be reforested. The adoption of ordinances did not work out as it was envisioned, and this bill will make clear that an appropriate standard must be set by the county.

This bill is good for the citizen who wants to conduct a forest practice, as well as being good for the environment. The streamlined process will mean that a developer will not need to get all of the permits from the county or city, only to then have to get a forest practices approval from the DNR. Consolidating all permitting at the local level makes sense since forest practices in urbanizing areas is interwoven with urban planning.

(With concerns to original bill) Counties may not have enough money to take on the extra requirements, so there should be an option to maintain DNR approvals if the county so chooses.

Testimony Against: None.

Persons Testifying: (In support of original bill) Representative B. Sullivan, prime sponsor; Eric Johnson and Paul Parker, Washington State Association of Counties; Leonard Young, Washington Department of Natural Resources; and Leonard Bauer, Department of Community, Trade and Economic Development.

(With concerns to original bill) Jeff Rasmussen, Cowlitz County Commissioner.

Persons Signed In To Testify But Not Testifying: Dave Williams, Association of Washington Cities; Gumisu Adkins, Future Wise; and Stephen Bernath, Department of Ecology.