

HOUSE BILL REPORT

ESHB 1631

As Amended by the Senate

Title: An act relating to using revenues under the county conservation futures levy.

Brief Description: Using revenues under the county conservation futures levy.

Sponsors: By House Committee on Local Government (originally sponsored by Representatives Clibborn, Fromhold, Moeller, Wallace and Jarrett).

Brief History:

Committee Activity:

Local Government: 2/9/05, 2/21/05 [DPS];

Finance: 3/4/05, 3/7/05 [DPS(LG)].

Floor Activity:

Passed House: 3/14/05, 55-41.

Senate Amended.

Passed Senate: 4/7/05, 46-3.

Brief Summary of Engrossed Substitute Bill

- Increases the maximum allowable county property tax levy for conservation futures from 6.25 cents to 10 cents per \$1,000 of assessed valuation.
- Requires any levy for county conservation futures over six and one-quarter cents per \$1,000 of assessed valuation be reduced before any other levy.
- Requires a portion of the funds collected from this levy to be used for maintaining and operating property acquired with the funds.
- Requires the Board of County Commissioners or county legislative authority in counties with more than 100,000 residents to develop a process to distribute conservation futures levy funds throughout the county.
- Encourages the use of conservation futures as a tool for salmon restoration purposes.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Simpson, Chair; Clibborn, Vice Chair; B. Sullivan and Takko.

Minority Report: Do not pass. Signed by 3 members: Representatives Schindler, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; and Woods.

Staff: Thamas Osborn (786-7129).

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill by Committee on Local Government be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives McIntire, Chair; Hunter, Vice Chair; Conway, Hasegawa and Santos.

Minority Report: Do not pass. Signed by 4 members: Representatives Orcutt, Ranking Minority Member; Roach, Assistant Ranking Minority Member; Ahern and Ericksen.

Staff: Mark Matteson (786-7145).

Background:

Since 1971, state law has provided a method by which designated entities both public and private may acquire certain property rights for the purpose of conserving selected open space land, farm and agricultural land, and timber land for public use or enjoyment. Counties, cities, towns, metropolitan park districts, metropolitan municipal corporations, and nonprofit preservation and conservancy corporations meeting statutory requirements may acquire full or partial interests in lands by purchase, gift or other prescribed method. The pertinent statutes refer to such property interests as "conservation futures."

The acquisition of a "conservation future" by an authorized entity – public or private – confers that entity with rights in perpetuity allowing the exercise of varying degrees of control over how the property is developed or maintained. The degree and type of control over the property that may be exercised by an entity acquiring a conservation future is dependent on the terms of the purchase of the conservation future. For example, if a private owner sells a conservation future limiting his or her right to develop the property, but nevertheless retains title to the property, the private owner is restricted in his future use or development of the property in accordance with the terms of purchase agreement. In such instances, the private land owner would be required to seek the permission of the entity holding the conservation future before engaging in any activity that might be deemed inconsistent with the conservation future agreement.

Counties may levy a tax of up to 6.25 cents per \$1,000 of assessed valuation of all taxable property in the county for the purpose of acquiring conservation futures and other related rights and interests in real property. County legislative authorities may also establish a conservation futures fund, which may be used solely to acquire conservation futures and other rights and interests in real property pursuant to statutory requirements.

Summary of Engrossed Substitute Bill:

The maximum county levy rate for the acquisition of conservation futures is increased from 6.25 cents to 10 cents per \$1,000 of assessed valuation. If the consolidated tax levy rate exceeds the 1 percent limitation, any portion of the levy imposed for purposes of requiring open space, land, or rights to future development that is in excess of six and one-quarter cents per \$1,000 of assessed valuation must be reduced until the combined rate no longer exceeds 1 percent of the true and fair value of any property or must be eliminated prior to any other levy. All rights or interests in real property acquired with conservation futures levy funds must be located within the assessing county. In addition to covering the costs of acquisition, such levy funds must be used for maintaining and operating property acquired with conservation futures funds. No more than 25 percent of the funds, however, may be used for maintenance and operation of parks and recreational facilities. Furthermore, conservation futures funds may not be used to supplant existing maintenance and operation funding.

County commissioners or county legislative authorities in counties with more than 100,000 residents are required to develop a process to eventually distribute conservation futures levy funds throughout the county. Counties are also encouraged to use some conservation futures funds for salmon restoration purposes.

EFFECT OF SENATE AMENDMENT(S):

Decreases the conservation futures levy from 10 cents to 6 1/4 cents per \$1,000 of assessed property tax valuation. Requires counties to adopt measures to increase the capacity of land for housing and employment growth when actions are taken related to conservation futures that reduce the capacity to accommodate planned growth. Reduces the maximum amount of revenue that can be used for maintenance and operations of parks and recreational facilities from 25 percent of the total amount collected from the tax levied in the preceding calendar year to 15 percent. Deletes the tax levy provisions which require reduction of any levy that exceeds 6 1/4 cents per \$1,000 of assessed valuation until the combined rate no longer exceeds one percent of the true and fair value of any property. Adds a provision that allows county legislative authorities in specified counties to authorize a ballot proposition that asks county voters to determine whether or not the county may make a one-time emergency reallocation of unspent conservation futures funds to pay for other county government purposes. This provision applies only to counties with population densities of fewer than four persons per square mile and expires as of July 1, 2008.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: (Local Government) (Original bill) It is very important that open space be preserved and maintained, but this will require a great deal of additional funding. This is a costly, but necessary, process that enhances the quality of our environment and benefits our communities. One benefit will be the preservation of salmon habitat. Enabling the

acquisition of "conservation futures" is essential to this process. Additional funding, as provided under the bill, is necessary because at present the properties acquired through the purchase of conservation futures are slowly degrading. A substantial portion of the funding should, therefore, be used for maintenance and operations purposes. However, the amount set aside for maintenance and operations should be increased from 10 percent to 25 percent. The bill benefits the public and can often increase the value of properties adjacent to the open lands which are preserved. The bill does involve a tax increase, but is good public policy insofar as it encourages public support for greater population densities elsewhere. Expanding open space areas is compatible with maintaining the requisite urban densities and will not reduce the availability of buildable lands.

Testimony For: (Finance) Revenues from these levies are going for the important public purposes of protecting fish habitat, parks, and open spaces. This program makes density requirements more palatable. The maintenance and operation is a new idea because counties and cities that have purchased these properties in some cases have become bad neighbors. These properties simply weren't being kept up. So we added an amendment that allocates 25 percent to maintenance and operation. In part this is to address the concern among builders that buildable lands might be bought up with the added funds.

Clark County has had a successful county conservation futures program that has leveraged many private and nonprofit dollars. The program has helped us avoid the situation where there would be a regulatory taking of land to preserve wetlands. The program has created a tourist magnet and is quite popular. When lands are part of the buildable lands inventory, which is rare, the buildable lands are extended at the earliest possible time in order to maintain balance in the overall inventory.

It has been difficult to find funds for the management and upkeep of parks. This allows a piece of the levy to be used for such purposes.

Testimony Against: (Local Government) (Original bill) This bill represents bad public policy because it does not provide the proper tool to provide for open space needs and will only add to the current crisis regarding the increasing lack of buildable lands. The bill is contrary to GMA goals since it allows for the purchase of buildable lands within urban growth boundaries. By thus diminishing the availability of buildable lands, the bill will have a negative impact on the availability of affordable housing. The bill will have the effect of exacerbating existing problems regarding affordable housing and does not provide the proper vehicle for creating needed parks and recreational land.

Testimony Against: (Finance) None.

Persons Testifying: (Local Government) (In support on original bill) Representative Clibborn, prime sponsor; Brit Kramer, Washington Recreation Association; Doug Levy, Cities of Everett, Kent, Federal Way, Renton, and Puyallup; Dawn Vyvyan, Washington Recreation and Parks Association; Peter Mayer, City of Mercer Island Parks & Recreation; Dave Williams, Association of Washington Cities; and Sharon Wylie, Clark County.

(Opposed on original bill) Trent Matson, Building Industry Association of Washington.

Persons Testifying: Sharon Wylie, Clark County; and Dawn Vyvyan, Washington Recreation and Park Association.

Persons Signed In To Testify But Not Testifying: (Local Government) None.

Persons Signed In To Testify But Not Testifying: (Finance) None.