HOUSE BILL REPORT
HB 2740

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

Title: An act relating to reauthorizing the department of natural resources to have exclusive jurisdiction over all forest practices applications.

Brief Description: Concerning applications for forest practices.

Sponsors: Representatives Orcutt, Blake and Kretz.

Brief History:
Committee Activity:
Natural Resources, Ecology & Parks: 1/26/06, 2/2/06 [DPS].

Brief Summary of Substitute Bill

- Repeals the authority for local government to approve or disapprove Class IV forest practices.
- Prohibits local permitting agencies from denying a building or subdivision application based on an applicant's failure to state an intent to convert the land or failure to satisfy a forest practices standard that was not adopted by the Forest Practices Board.

HOUSE COMMITTEE ON NATURAL RESOURCES, ECOLOGY & PARKS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives B. Sullivan, Chair; Upthegrove, Vice Chair; Buck, Ranking Minority Member; Kretz, Assistant Ranking Minority Member; Blake, Chandler, Eickmeyer, Kagi and Orcutt.

Minority Report: Do not pass. Signed by 2 members: Representatives Dickerson and Hunt.

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 vary depending

on which 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 do 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 greater 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 government 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 were required to adopt the necessary ordinances for Class IV forest practices approvals 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 Appeals Board.

Counties and cities that adopted the necessary ordinances to obtain control over Class IV forest practices approvals, and had those ordinances approved by the DNR, were eligible for technical assistance from the DNR until January 1, 2006.

Development moratoriums in the Forest Practices Act

Landowners with permission to conduct a forest practice must, if their intent is not to convert the land into a non-forestry use, complete a statement of intent not to convert. Once this statement is made, the appropriate local government is prohibited, with a few exceptions, from approving a building permit or subdivision application for six years after the forest practices application was filed. The statement of intent must be filed with the county, and the applicant must pay a recording fee to the county to cover the cost of filing.

Summary of Substitute Bill:

The authority for local government to approve or disapprove Class IV forest practices is repealed. Thus, the DNR will be the only authority responsible for reviewing and approving forest practices.

The six-year conversion moratorium that local governments must enforce if a forest landowner converts his or her land to a non-forestry use after signing an intent not to do so is lifted. Instead, local permitting agencies are expressly prohibited from denying a building or subdivision application based on an applicant's failure to state an intent to convert the land or failure to satisfy a forest practices standard that was not adopted by the Forest Practices Board.

Substitute Bill Compared to Original Bill:

The substitute bill clarifies that forest landowners not planning to convert their land to a non-forestry use must abide by the reforestation requirements in the Forest Practices Rules. The substitute bill also removes a section in the original bill that repealed a provision relating to the DNR's role as exclusive regulator of forest practices.

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) The process of converting land into a non-forestry use is very complicated and should be simplified. There are different standards in different jurisdictions, which makes it hard for the landowner to know which rules apply where.

The updates to the Forest Practices Rules that were adopted to be consistent with the Forest and Fish Report give adequate protection to the environment, and duplicate efforts by counties are not needed. The forest practices expertise in the state is housed at the DNR, and involving counties is both cumbersome and unnecessary.

It is particularly hard for a family forester to plan out six years in the future and know that he or she will not have to convert his or her land to a non-forestry use over that time period. Society should reward landowners for keeping their properties from being developed, but the current building moratorium acts like a disincentive. The development moratorium requirement makes landowners pay for a cloud on their title, which is not something that owners of other non-developed lands have to face.

(With concerns on original bill) The bill changes arrangements that were carefully negotiated and short circuits county prerogatives. Forest conversion effects migratory birds, so if the development moratorium is lifted, then at least the reforestation requirements should remain.

Testimony Against: (Opposed to original bill) The local government should have a role when a forest landowner wants to convert his or her parcel to a non-forestry use.

Persons Testifying: (In support of original bill) Representative Orcutt, prime sponsor; Jeff Rasmussen, Cowlitz County; Martin Flynn and Ken Miller, Washington Farm Forestry Association; and John Zapan, Western Forest.

(With concerns on original bill) Bill Garvin, Washington Forest Protection Association; and Leonard Young, Department of Natural Resources.

(Opposed to original bill) Stephen Bernath, Department of Ecology; and Miguel Perez-Gibson, Audubon Society.

Persons Signed In To Testify But Not Testifying: (With concerns on original bill) Pat McElroy, Department of Natural Resources.

(Opposed to original bill) Kaleen Cottingham, Futurewise.