

SHB 2212 - H AMD 401

By Representative Simpson

ADOPTED 3/13/2007

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that the goal
4 of preserving Washington's agricultural lands is shared by citizens
5 throughout the state. The legislature recognizes that efforts to
6 achieve a balance between the productive use of these resource
7 lands and associated regulatory requirements have proven difficult,
8 but that good faith efforts to seek solutions have yielded
9 successes. The legislature believes that this willingness to find
10 and pursue common ground will enable Washingtonians to enjoy the
11 benefits of a successful agricultural economy and a healthy
12 environment, while also preventing the unnecessary conversion of
13 valuable agricultural lands.

14 (2) The legislature, therefore, intends this act, the temporary
15 delays it establishes for amending or adopting provisions of
16 certain critical area ordinances and implementing regulations, and
17 the duties and requirements it prescribes for the William D.
18 Ruckelshaus Center, to be expressions of progress in resolving,
19 harmonizing, and advancing commonly held environmental protection
20 and agricultural viability goals.

21 (3) The legislature fully expects the duties and requirements
22 it is prescribing for the Ruckelshaus Center to be successful. If,
23 however, the efforts of the center do not result in a consensus of
24 how to best address the conflicts between agricultural activities
25 and certain regulatory requirements as they apply to agricultural
26 activities, the legislature intends, upon the expiration of the
27 delay, to require jurisdictions that have delayed amending or
28 adopting certain regulatory measures to promptly complete all
29 regulatory amendments or adoptions necessary to comply with the
30 growth management act.

1 (4) The legislature does not intend this act to reduce or
2 otherwise diminish existing critical area ordinances and
3 implementing regulations that protect critical areas that apply to
4 agricultural activities during the deferral period established in
5 section 2 of this act.

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.70A
7 RCW to read as follows:

8 (1) Until July 1, 2009, counties and cities must defer amending
9 or adopting critical area ordinances and implementing regulations
10 under RCW 36.70A.060(2) as they specifically apply to agricultural
11 activities. Nothing in this section:

12 (a) Nullifies critical area ordinances and implementing
13 regulations adopted by a county or city prior to January 1, 2007,
14 to comply with RCW 36.70A.060(2);

15 (b) Limits or otherwise modifies the obligations of a county or
16 city to comply with the requirements of this chapter pertaining to
17 critical areas not associated with agricultural activities; or

18 (c) Limits the ability of a county or city to employ voluntary
19 measures or programs to protect or enhance critical areas
20 associated with agricultural activities.

21 (2) Counties and cities that defer amending or adopting
22 critical area ordinances and implementing regulations under
23 subsection (1) of this section must review and revise these
24 ordinances and regulations as they specifically apply to
25 agriculture activities to comply with the requirements of this
26 chapter by July 1, 2010.

27 (3) For purposes of this section and sections 3, 4, and 6 of
28 this act, "agricultural activities" means agricultural uses and
29 practices currently existing or legally allowed, including, but not
30 limited to: Producing, breeding, or increasing agricultural
31 products; rotating and changing agricultural crops; allowing land
32 used for agricultural activities to lie fallow in which it is
33 plowed and tilled but left unseeded; allowing land used for
34 agricultural activities to lie dormant as a result of adverse
35 agricultural market conditions; allowing land used for agricultural
36 activities to lie dormant because the land is enrolled in a local,
37 state, or federal conservation program, or the land is subject to
38 a conservation easement; conducting agricultural operations;

1 maintaining, repairing, and replacing agricultural equipment;
2 maintaining, repairing, and replacing agricultural facilities, when
3 the replacement facility is no closer to a critical area than the
4 original facility; and maintaining agricultural lands under
5 production or cultivation.

6 NEW SECTION. **Sec. 3.** A new section is added to chapter 36.70A
7 RCW to read as follows:

8 (1) Nothing in this act limits or otherwise modifies the
9 authority of a county or city to:

10 (a) Comply with an order from a growth management hearings
11 board or a court;

12 (b) Implement a settlement in compliance with the requirements
13 of this chapter; or

14 (c) Attempt to settle issues raised in litigation challenging
15 critical area ordinances and implementing regulations under RCW
16 36.70A.060(2) as they specifically apply to agricultural
17 activities.

18 NEW SECTION. **Sec. 4.** (1) Subject to the availability of
19 amounts appropriated for this specific purpose, the William D.
20 Ruckelshaus Center must conduct an examination of the conflicts
21 between agricultural activities and critical area ordinances and
22 implementing regulations adopted under chapter 36.70A RCW to
23 protect critical areas. The examination required by this section
24 must commence by July 1, 2007.

25 (2) In fulfilling the requirements of this section, the center
26 must: (a) Work and consult with willing participants, including,
27 but not limited to, agricultural, environmental, tribal, and local
28 government interests; and (b) involve and apprise legislators and
29 legislative staff of its efforts.

30 (3) The examination conducted by the center must be completed
31 in two distinct phases in accordance with the following:

32 (a) In the first phase, the center must conduct fact-finding
33 and stakeholder discussions with stakeholders identified in
34 subsection (2) of this section. These discussions must identify
35 stakeholder concerns, desired outcomes, opportunities, and
36 barriers. The fact-finding must identify existing regulatory,
37 management, and scientific information related to agricultural

1 activities and critical areas, including, but not limited to: (i)
2 Critical area ordinances and implementing regulations adopted under
3 chapter 36.70A RCW to protect critical areas; (ii) acreage enrolled
4 in the conservation reserve enhancement program; (iii) acreage
5 protected by conservation easements; (iv) buffer widths; (v)
6 requirements of federally approved salmon recovery plans; (vi) the
7 impacts of agricultural activities on Puget Sound recovery efforts;
8 and (vi) compliance with water quality requirements. The center
9 must issue a report of its fact-finding efforts and stakeholder
10 discussions to the governor and the appropriate committees of the
11 house of representatives and the senate by December 1, 2007; and

12 (b) In the second phase, the center must facilitate discussions
13 between the stakeholders identified in subsection (2) of this
14 section to identify policy and financial options or opportunities
15 to address the issues identified by stakeholders in the first phase
16 of the center's examination efforts. In particular, the center
17 must examine innovative solutions, including, but not limited to,
18 outcome based approaches that incorporate, to the maximum extent
19 practicable, voluntary programs or approaches. The center must
20 work to achieve consensus among participating stakeholders on
21 identified issues and to develop a coalition of diverse
22 stakeholders that can be used to support agreed upon changes or new
23 approaches to protecting critical areas during the 2009 legislative
24 session.

25 (4) The center must issue a final report of findings and
26 legislative recommendations to the governor and the appropriate
27 committees of the house of representatives and the senate by
28 September 1, 2008.

29 NEW SECTION. **Sec. 5.** If specific funding for the purposes of
30 section 4 of this act, referencing this act and section 4 of this
31 act by bill or chapter number and section number, is not provided
32 by June 30, 2007, in the omnibus appropriations act, this act is
33 null and void.

34 NEW SECTION. **Sec. 6.** This act applies retroactively to any
35 critical area ordinances and implementing regulations under RCW
36 36.70A.060(2) as they specifically apply to agricultural activities
37 amended or adopted by a county or city on or after January 1, 2007.

1 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of
3 the state government and its existing public institutions, and
4 takes effect immediately.

5 NEW SECTION. **Sec. 8.** This act expires July 1, 2010."

6 Correct the title.

EFFECT: (1) Specifies that until July 1, 2009, counties and cities must defer amending or adopting critical area ordinances and implementing regulations as they specifically apply to agricultural activities.

(2) Specifies that counties and cities that defer amending or adopting critical area ordinances and implementing regulations as provided must review and revise these critical area ordinances and implementing regulations as they specifically apply to agriculture activities to comply with the requirements of the Growth Management Act (GMA) by July 1, 2010.

(3) Defines "agricultural activities."

(4) Specifies that, except as provided otherwise, nothing in the act limits or otherwise modifies the authority of a county or city to: comply with an order from a growth management hearings board or a court; implement a settlement in compliance with the requirements of the GMA; or attempt to settle issues raised in litigation challenging critical area ordinances and implementing regulations as they specifically apply to agricultural activities.

(5) Specifies that, subject to the availability of amounts for this purpose, the William D. Ruckelshaus Center (Center) must conduct an two-phased examination of the conflicts between agricultural activities and critical area ordinances and implementing regulations adopted under the GMA to protect critical areas.

(6) Establishes examination requirements that must be met by the Center.

(7) Requires the Center to issue reports meeting specified criteria to the Governor and the Legislature on December 1, 2007, and September 1, 2008.

(8) Specifies that the act is null and void if funding for the examination required by the Center is not provided by June 30, 2007, in the omnibus appropriations act.

(9) Includes intent language.

(10) Specifies that the act applies retroactively to any critical area ordinances and implementing regulations as they specifically apply to agricultural activities that were amended or adopted by a county or city on or after January 1, 2007.

(11) Includes an emergency clause.

(12) Expires the act on July 1, 2010.