Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Agriculture & Natural Resources Committee

HB 1409

Brief Description: Transferring jurisdiction over conversion-related forest practices to local governments.

Sponsors: Representatives B. Sullivan, Orcutt, Kretz and Takko.

Brief Summary of 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 allow the authority to approve or disapprove forest practices to be transferred from the Department of Natural Resources to the local government by December 31, 2008.

Hearing Date: 1/31/07

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 of 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:

1. **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.
2. **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 formal approval.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

3. **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 lower potential than Class IV practices. Class III forest practices do require pre-approval from the DNR.
4. **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 for 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 were 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's 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 (DOE), and may disapprove the ordinance wholly or in part.

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

Summary of 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 2008, 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, 2003, and December 31, 2005, and whether the county plans under the GMA.

For counties planning under the GMA, 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, or if the county does not plan under the GMA, then the transfer of jurisdiction for approvals is optional for the county and its cities.

GMA counties vs. non-GMA 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, are given the discretionary authority 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. They must also adopt ordinances for the approval of 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.

Prerequisites 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 require appropriate approvals for all phases of forest land conversion. The local jurisdiction must also ensure consistency between its comprehensive plan and the new development regulations.

A county or city cannot 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 DOE at least 60 days before adoption of the necessary ordinances. However, neither department must approve 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.

Appropriation: None.

Fiscal Note: Requested on January 24, 2007.

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