

# SENATE BILL REPORT

## SHB 2219

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As Reported By Senate Committee On:  
Natural Resources, Ocean & Recreation, February 25, 2008

**Title:** An act relating to forest practices regulations applicable to small forest landowners.

**Brief Description:** Regarding forest practices regulations that apply to small forest landowners.

**Sponsors:** House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Orcutt, B. Sullivan, Kessler and Kretz).

**Brief History:** Passed House: 1/30/08, 97-0.

**Committee Activity:** Natural Resources, Ocean & Recreation: 2/20/08, 2/25/08 [DPA-WM].

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### SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

**Majority Report:** Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Jacobsen, Chair; Hatfield, Vice Chair; Morton, Ranking Minority Member; Fraser, Rockefeller, Spanel and Stevens.

**Staff:** Sherry McNamara (786-7402)

**Background:** The Legislature created the Forest Riparian Easement Program (FREP) in 1999, a program which is administered by the Department of Natural Resources (DNR) Small Forest Landowner Office (SFLO). The program involves DNR acquiring and holding 50 year easements for riparian and other sensitive areas as granted by small forest landowners.

Upon application, the SFLO must determine the compensation appropriate for a riparian easement based on the fair market value of qualifying timber. The SFLO gathers data necessary to determine fair market value by conducting timber cruises. The SFLO must generally provide small forest landowners 50 percent of the fair market value of the qualifying timber, plus compliance and reimbursement costs. Such costs include the cost of entering into the easement, and the costs of laying out stream side buffers and marking qualified timber.

The term "qualifying timber," for purposes of determining the easement size and value, includes trees that a small forest landowner must leave unharvested, or where harvest becomes uneconomical, due to the rules adopted pursuant to the Forests and Fish Agreement.

Small forest landowners maintain the ability to utilize property subject to an easement, so long as those activities do not impair riparian function.

Under a provision known as the "20-acre exemption," landowners with parcels of 20 contiguous acres or less, who own less than 80 acres total, are not required to leave riparian

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buffers under the Forests and Fish standards. These landowners must follow the rules in effect prior to Forests and Fish, although DNR may require some additional riparian buffer volumes.

**Summary of Engrossed Bill:** Several changes are made to FREP. The scope of timber qualifying for the easement program is expanded. The term "qualifying terms" includes timber left unharvested by a landowner who could harvest the timber under the 20-acre exemption to the Forests and Fish Rules if they took ownership of the property after June 5, 2006. The term "qualify timber" is also expanded to specifically include restrictions on harvesting timber in riparian areas, groundwater recharge areas and on unstable slopes.

The SFLO must prioritize small forest landowners who are not nonprofit organizations, or municipalities, municipal corporations, or special districts. In addition, the SFLO is required to initiate the process for determining the compensation amount as soon as possible after receiving an application for the program.

The SFLO must reimburse small forest landowners for the actual costs incurred for hiring a qualified expert to complete required studies or reports as part of the forest practices application upon which the easement application is based.

The SFLO must by the end of the 2007-2009 biennium use funds specifically made available to complete the compensation estimates for FREP applications. The Forest Practices Board must also remove language directing the SFLO to provide landowners with a notice of compensation within 60 days of completing the required timber cruise.

**EFFECT OF CHANGES MADE BY NATURAL RESOURCES, OCEAN & RECREATION COMMITTEE (Recommended Amendments):** Requires the SFLO to use available funds to complete the compensation estimates for FREP applications by the end of the 07-09 biennium.

Requires the Forest Practices Board to remove the requirement in rules for the SFLO to send a landowner a notice of compensation within 60 days of the timber cruise.

Broadens "qualifying timber" to include timber left unharvested by a landowner who could harvest the timber under the 20-acre exemption to the Forests and Fish Rules if they took ownership of the property after June 5, 2006.

Also expands "qualifying timber" to specifically include restrictions on harvesting timber in riparian areas, groundwater recharge areas, and on unstable slopes.

Adds a requirement for SFLO to prioritize and pay small forest landowners who are not nonprofit organizations, or municipalities, municipal corporations, or special districts.

Requires small forest landowners to be reimbursed for the actual costs incurred for hiring a qualified expert to complete required studies or reports as part of the forest practices application upon which the easement application is based.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Substitute Bill:** PRO: Clearing up the backlog in the FREP program is a priority. Waiting until the money is appropriated, which can be as long as two years, to determine the value is not working. Timber cruises need to be conducted as close to the harvest of the timber as possible. When a determination of the value is not determined until late in the process or after the actual harvest occurs, the landowner is vulnerable to not being compensated for trees that are lost due to wind storm damage. The Forest Practices rules were designed to protect fish habitat so having the limitation on harvesting timber on unstable slopes is an important aspect of that protection. These changes to FREP are the top priority for small forest landowners. The small landowner should be reimbursed for the expense of hiring experts to prepare a geotechnical report, as well as other reports that are needed for the FREP application.

This bill is a step toward solving the problem of a landowner spending money to prove their land is not harvestable. One addition to the bill would be to add protection for ground water recharge areas.

**Persons Testifying:** PRO: Representative Orcutt, Prime Sponsor; Mary McDonald, DNR; Clydia J. Cuykendall, citizen; Martin Flynn, Washington Farm Forestry Association.