

# SENATE BILL REPORT

## SSB 5248

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As Amended by House, April 13, 2007

**Title:** An act relating to preserving the viability of agricultural lands.

**Brief Description:** Preserving the viability of agricultural lands.

**Sponsors:** Senate Committee on Agriculture & Rural Economic Development (originally sponsored by Senators Hatfield, Schoesler, Rasmussen, Morton, Honeyford, Haugen, Shin and Holmquist).

**Brief History:**

**Committee Activity:** Agriculture & Rural Economic Development: 1/29/07, 2/5/07 [DPS].  
Passed Senate: 3/14/07, 32-17.

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### SENATE COMMITTEE ON AGRICULTURE & RURAL ECONOMIC DEVELOPMENT

**Majority Report:** That Substitute Senate Bill No. 5248 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rasmussen, Chair; Hatfield, Vice Chair; Schoesler, Ranking Minority Member; Morton and Shin.

**Staff:** Bob Lee (786-7404)

**Background:** The Growth Management Act (GMA) was enacted in 1990. Local jurisdictions that are required, or choose to plan, are to adopt development regulations.

Generally, agricultural lands are either designated as "agricultural lands of long-term commercial significance" or as "rural" lands. Agricultural lands of long-term commercial significance are those that are not already characterized by urban growth and have long-term significance for the commercial production of food or other agricultural products. With a few exceptions, such as the one acre accessory use provision enacted in 2006, conversion of this category of agricultural land to non-agricultural uses is not allowed. The restrictions on the conversion of agricultural lands in areas zoned as rural are less and depend on the local ordinance.

The GMA requires local jurisdictions to protect critical areas. Local governments have adopted critical area ordinances and are required to update these based on a schedule. In 1995, counties and cities were required to include best available science in designating and protecting critical areas. In 2003, the Department of Ecology and the Department of Fish and Wildlife developed a version of "best available science" which has not been adopted as a rule

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nor been subject to public hearings. The result is that local governments are proposing larger buffers than previously existed which is meeting with resistance from local landowners.

In 2002, provisions were added to the Shoreline Management Act that specified that the contents of guidelines adopted by the Department of Ecology and master plans adopted by local governments may not require modification of, or limit agricultural activities on, agricultural land. However, they must include provisions addressing new agricultural activities on land not meeting the definition of agricultural activities, conversion of agricultural land to other uses, and development not meeting the definition of agricultural activities.

**Summary of Substitute Bill:** Critical area ordinances and development regulations developed or amended by local governments under the GMA may not prohibit legally existing agricultural activities occurring on agricultural land, as defined in the Shorelines Management Act, and may not require removal of agricultural land from production. This act applies only to this chapter, and must not affect any other authority of local governments. The bill is prospective only and not retroactive.

**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 Original Bill:** PRO: The GMA was never about putting farms or farmland out of production. Some counties are proposing no touch buffers, taking away farmland and making control of noxious weeds impossible. A proposed 200 foot buffer on this farm in western Washington which has two rivers, a pond, and a small creek will take 97 acres out of production. A study of the fiscal impact to alfalfa growers in Yakima County shows a large loss of production on land that is in a perennial crop. The settlement agreement entered into by Jefferson County calls for 450 foot buffers. On a 200 acre farm in Skagit County that has 1.5 miles frontage on a river that is off-limits to Chinook salmon, a 75 foot buffer will take 1/4 of the farmland. This issue has been raging for at least ten years and needs to be solved this session. Initiative opponents promised that if people voted down the initiative, that this issue would be addressed this session by the Legislature. Imposing mandatory requirements is not only costly to the landowner but it makes them ineligible for the federal cost-share program specifically designed to enhance fish habitat.

CON: Opponents of I-933 did hear a lot of examples this summer and are working hard to address the issue. The bill goes too far and allows a total exclusion of farmland. The Ruckelshaus Policy Consensus Center is attempting to address the issue.

**Persons Testifying:** PRO: Dan Wood, Farm Bureau; Terry Willis, citizen; Gene Jenkins, Yakima County Farm Bureau; Roger Short, citizen; Norm MacLeod; Olympic Water Users Association; Randy Good, Skagit County Cattlemen's Association; Oscar Hagerlund, citizen; Don Stuart, American Farmland Trust; Jack Field, Washington Cattlemen's Association.

CON: Kaleen Cottingham, Futurewise.

**House Amendment(s):** The House striking amendment does the following:

Counties and cities must defer amending or adopting critical areas ordinances (CAOs) as they specifically apply to agricultural activities until July 1, 2010. This does not limit obligations of a county or city to comply with requirements pertaining to critical areas not associated with agricultural activities nor limit the ability of a county or city to adopt or employ voluntary measures or programs to protect or enhance critical areas associated with agricultural activities.

Counties and cities subject to deferral requirements should implement voluntary programs to enhance public resources and the viability of agriculture, and must include measures to evaluate their success. By December 1, 2011, counties and cities subject to deferral are to review and revise CAOs to comply with the requirements of this chapter.

Subject to the availability of funds, the Ruckelshaus Center is directed to commence, by July 1, 2007, a two-phase examination of the conflicts between agricultural activities and CAOs. The first phase is to conduct fact-finding and stakeholder discussions, and the second phase is to facilitate discussions to identify policy and financial options or opportunities to address issues and desired outcomes. The Center is to issue a final report of findings and legislative recommendations to the Governor and the appropriate legislative committees by September 1, 2009.

The study provisions are null and void if funding is not provided in the budget.

An emergency is declared and the bill takes effect immediately.

The act expires on December 1, 2011.