

SENATE BILL REPORT

SB 5248

As Reported By Senate Committee On:
Agriculture & Rural Economic Development, February 5, 2007

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

Brief Description: Preserving the viability of agricultural lands.

Sponsors: 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].

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 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.

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.

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 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 shall not affect any other authority of local governments.

EFFECT OF CHANGES MADE BY RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Agriculture & Rural Economic Development): Clarification is provided that the effect of the bill is to be prospective only and not retroactive. Only those critical area ordinances and development regulations developed or amended after the effective date shall not prohibit legally existing agricultural activities on agricultural land.

Appropriation: None.

Fiscal Note: Requested on January 23, 2007.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: 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 Ruckelshouse 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.