

SENATE BILL REPORT

SB 5883

As Reported By Senate Committee On:
Natural Resources, Ocean & Recreation, February 22, 2007
Ways & Means, March 5, 2007

Title: An act relating to the conversion of forest land to nonforestry uses.

Brief Description: Concerning conversion of forest land to nonforestry uses.

Sponsors: Senators Fraser, Swecker, Hargrove, Stevens, Morton, Jacobsen, Rockefeller, Rasmussen and Franklin.

Brief History:

Committee Activity: Natural Resources, Ocean & Recreation: 2/14/07, 2/22/07 [DPS].
Ways & Means: 2/27/07, 3/05/07 [DP2S].

SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

Majority Report: That Substitute Senate Bill No. 5883 be substituted therefor, and the substitute bill do pass.

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

Staff: Curt Gavigan (786-7437)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5883 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Carrell, Fairley, Hatfield, Hewitt, Hobbs, Honeyford, Keiser, Kohl-Welles, Oemig, Parlette, Rasmussen, Regala, Roach, Rockefeller, Schoesler and Tom.

Staff: Kirstan Arestad (786-7708)

Background: Landowners seeking to conduct forest practices must, if their intent is not to convert the land to a non-forestry use, complete a statement of intent not to convert. Once this statement is made, the appropriate local government is prohibited, with few exceptions, from approving a building permit or subdivision application for six years after the forest practices

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.

application is filed. This prohibition on development is commonly referred to as the moratorium.

The Department of Natural Resources (DNR) must file the statement of intent not to convert with the local government, collect the recording fee, and reimburse the local government for the cost of filing the statement.

The moratorium does not apply in several situations. Local governments are required to develop a process for lifting the moratorium, which must include public notification, public hearings, and appeals. Local governments may develop an administrative process for lifting or waiving the moratorium for construction of a single family residence or outbuilding. Also, the moratorium does not apply where a landowner has entered into, and is in compliance with, a conversion option harvest plan approved by the local government.

Any owner of forest land who proposes to conduct a forest practice must pay an application fee and a recording fee. The fee for most forest practice applications is \$50. However, a fee of \$500 applies to forest practice operations lands located within an urban growth area or on lands not intended to be reforested.

Summary of Bill: The six-year building moratorium that applies to a landowner upon the filing of a statement of intent not to convert is removed. Instead, if a landowner begins conversion activities without an approved forest practices application, or fails to state in a forest practices application that the land subject to the application will be converted, then the DNR must send a notice of conversion to a non-forestry use (notice) to the Department of Ecology and the local government where the land is located. The notice must accompany a copy of the applicable forest practices application, and the copies of any outstanding final orders or decisions.

If the owner of land that is subject to a notice sent by the DNR files a building permit or subdivision application with the local government, that local government must deny approval of the application for six years following the approval of the forest practice application that initiated the DNR's notice. The local government may approve a building or subdivision application prior to the tolling of the six-year period, but only if the DNR has confirmed to the local government that all outstanding forest practice issues have been resolved, full compliance with the State Environmental Policy Act (SEPA) has been completed, and the local government has made a determination that the current condition of the land is in full compliance with all local ordinances and regulations. If the condition of the land is not in full compliance with local standards, the local government must require that a mitigation plan be implemented by the landowner.

If the owner of land that conducted a forest practice without stating an intent to convert on the application changes his or her mind and decides to convert the land, the owner must follow the following steps. The landowner must stop all forest practice activities and withdraw all applications and permits with the DNR. The landowner must contact the Department of Ecology and the local government to begin the proper permitting processes. Once contacted, the local government must notify the DNR to verify that all forest practices issues have been resolved, conduct a full SEPA review, and make a determination as to whether or not the land's current condition satisfies local standards and ordinances. If the condition of the land is

not in full compliance with local standards, then full implementation of a mitigation plan must be executed.

In either case, all applications under the Forest Practices Act must include an acknowledgment by the owner that he or she understands the potential impacts of conversion and, if sold, the owner must make the potential buyer aware of the obligations that come with a notice of conversion to a non-forestry use. Local governments that have adopted regulations governing class IV forest practices, those practices most associated with conversion, must adopt an ordinance that requires an affidavit for all development permits certifying that the land is not subject to a notice of conversion to a non-forestry use.

All forest practices fees are limited to \$50, except for activities necessary for the conversion of forest land or in an urban growth area. The fee for these activities may be set by the local government where the activity is planned to occur.

EFFECT OF CHANGES MADE BY RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Natural Resources, Ocean & Recreation): Instead of requiring an affidavit certifying that the land being converted is not subject to a notice of conversion, local governments regulating class IV forest practices must instead require verification that the land is not subject to a notice of conversion.

EFFECT OF CHANGES MADE BY RECOMMENDED SECOND SUBSTITUTE AS PASSED COMMITTEE (Ways & Means): The fee reduction for forestland conversions is removed.

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 (Natural Resources, Ocean & Recreation): PRO: This bill was the product of much work with interested parties over the interim. It creates a more clear process for land conversion, which will maintain protections for the environment and ensure communication between levels of government. Keeping forestland working is important to conservation interests and small forest landowners, and this bill addresses the issue for both groups.

Persons Testifying (Natural Resources, Ocean & Recreation): PRO: Rick Dunning, Washington Farm Forestry Association; Miguel Perez-Gibson, Audubon Society; Kaleen Cottingham, Futurewise; Melody Selby, Department of Ecology; Eric Johnson, Washington Association of Counties; Marc Engel, Michael Eklund-Grayum, Department of Natural Resources.

Staff Summary of Public Testimony (Ways & Means): PRO: The bill addresses concerns of small forest land owners, but has fiscal issues with regard to the proposed fee reduction. The fee reduction was thought to be a good idea at the time this bill was being developed, but in retrospect we recommend eliminating the fee reduction section of the bill in hopes of

reducing the fiscal impact to near zero. The bill is a small step towards removing disincentives concerning property rights.

Persons Testifying (Ways & Means): PRO: Senator Karen Fraser, prime sponsor; Martin Flynn, Washington Farm Forestry Association; Miguel Perez-Gibson, Audubon Washington.