

SENATE BILL REPORT

SB 6025

As of February 21, 2007

Title: An act relating to forest health.

Brief Description: Expanding provisions affecting forest health by creating a two tier technical assistance system.

Sponsors: Senator Jacobsen.

Brief History:

Committee Activity: Natural Resources, Ocean & Recreation: 2/21/07.

Brief Summary of Bill

- Designates DNR of Natural Resources (DNR) as the state lead in developing a comprehensive forest health program.
- Creates a two tiered system to address forest health issues:
 - Tier 1 consists of voluntary landowner actions and technical assistance provided by DNR.
 - Tier 2 consists of landowner actions recommended by DNR to manage developing or existing threats to forest health.
- Sets requirements for the administration of the forest health program.

SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

Staff: Curt Gavigan (786-7437)

Background: Current statute defines forest health as a forest sound in ecological function, sustainable, resilient, and resistant to insects, diseases, fire, and other disturbances, and having the capacity to meet landowner objectives.

In 2004, the Legislature created a work group to look at the issue of forest health in Washington and provide recommendations to the Legislature. The Forest Health Strategy Work Group (work group) produced findings, recommendations, and draft legislation modifying Washington's forest health statutes. In 2006, the Legislature reconvened the work group, instructing it to conduct public meetings regarding its legislative recommendations.

According to information from the work group, Washington State contains approximately 21 million acres of forestland. By 2005, over 2.5 million of those forested acres contained elevated levels of tree mortality, defoliation, or foliage disease. The western spruce budworm

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and bark beetle have caused significant tree damage in the state. The work group cites overcrowded forests as contributing to these elevated forest health and fire risks.

Current forest health provisions place the primary responsibility for forest health on timber landowners. If forest insects or diseases threaten timber stands with destruction, the Department of Natural Resources (DNR) is directed to create an infestation control district. DNR provides notice to timber landowners within the district, who must proceed without delay "to control, destroy and eradicate the said" pests or diseases. If the owner does not or cannot meet these requirements within 30 days, DNR has the duty to proceed with forest treatment activities. Under some circumstances, landowners can be held responsible for a portion of the costs of such activities conducted by DNR.

Current fire hazard statutes state that those who create or allow an extreme fire hazard to exist, which contributes to the spread of a fire, may be held liable for reasonable expenses stemming from the fire. Additionally, if an extreme fire hazard is not reduced after notice is provided, DNR may treat the hazard and recover from the landowner twice the actual cost of the action.

Summary of Bill: The bill gives DNR the lead role in developing a comprehensive forest health program for the state. Within available funding, DNR must also undertake activities to include: forest health information gathering and dissemination; coordinating forest health monitoring activities; and coordinating with universities and other agencies to provide landowners with technical assistance regarding forest health.

Language is added to the existing definition of forest health, specifying that a healthy forest landscape generally contains large living and dead trees, structural complexity, a diversity of plants and animals, and the capacity to support ecological functions performed by insects, disease-causing organisms, and fire at appropriate levels.

Two tiered system: A two tiered system is created to address forest health problems that emerge:

- 1) First, voluntary landowner measures are intended to protect forests from disturbance agents, such as insects, diseases, and wind storms. Landowners are expressly encouraged to maintain their forestlands in a healthy condition in order to meet their individual objectives, protect public resources, and avoid forest health risks.
- 2) Second, the Commissioner of Public Lands may issue a forest health hazard warning (warning) when the Commissioner deems such action necessary to manage the development of a threat or address an existing threat to forest health. The Commissioner must specify any recommended landowner actions when issuing a warning.

Requirements for a forest health warning: A forest health hazard warning must specify certain information, including the boundaries of the area affected and the actions landowners should take to reduce the hazard.

Prior to issuing a forest health hazard warning, the Commissioner must consider findings and recommendations from a scientific advisory committee, consult with other interested parties, and conduct a public hearing in a county within the geographic area of concern.

Notice of a forest health hazard warning must be given by newspaper, on DNR's website, and by personal service or mail to affected landowners.

Landowner duties and liability: Landowners who own land subject to a warning must take reasonable measures to reduce the danger of fire spreading where disturbance agents or dead or dying trees are likely to further the spread of fire.

Once a fire hazard is created, the bill establishes a presumption that a fire hazard exists until DNR gives notice that the hazard has been addressed.

DNR may certify as adequate a forest health management plan, before or in response to a forest health hazard warning, if the plan is likely to achieve the desired result and the landowner is following the plan.

The bill repeals the existing regulatory provisions that address the control of forest insects and diseases.

Appropriation: None.

Fiscal Note: Requested on February 14, 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: There is a forest health crisis in the state. A workable forest health program would give DNR a tool to address this issue. The current regulatory structure for combating forest insects and diseases is not functional. There is another bill proposing an alternative forest health program (SB6028), which would also allow DNR to address forest health issues. Although there may be disagreement about how the regulatory structure should look, the importance of moving forward with some proposal should not be lost. The conservation caucus has not supported forest health legislation in the past, but could support this proposal as it is inclusive of landowners seeking to manage the lands for biodiversity.

CON: Although the alternative forest health proposal (SB6028) is not perfect, it allows for action. This bill is a toothless tiger that allows warnings, but not required action. This bill also disenfranchises members of the Forest Health Strategies Work Group, who volunteered their time to develop the alternative proposal.

OTHER: Forest health problems are serious ones in this state and something needs to be done, but any legislation passed needs to ensure that small landowners do not bear the brunt of regulation actions. The alternative legislative proposal (SB6028) would be preferable, though both are workable.

Persons Testifying: PRO: Vicki Christiansen, DNR; Maurice Williamson, citizen; Miguel Perez-Gibson, Audubon; Bill Robinson, Nature Conservancy; David Whipple, Department of Fish and Wildlife; Heath Packard, Audubon.

CON: Tim Boyd, Vaagen Brothers, Boise, Port Blakely; Bob Dick, American Forest Resource Council.

OTHER: John Stuhmiller, Farm Bureau; Jack Field, Cattlemen's Association; Debora Munguia, Washington Forest Protection Association.