
HOUSE BILL 2541

State of Washington 61st Legislature 2010 Regular Session

By Representatives Takko, Orcutt, Kessler, Kretz, and Blake

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1 AN ACT Relating to maximizing the ecosystem services provided by
2 forestry through the promotion of the economic success of the forest
3 products industry; amending RCW 76.09.010 and 76.09.040; adding a new
4 section to chapter 76.09 RCW; and creating a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that commercial
7 forestry produces jobs and revenue while also providing clean water,
8 clean air, renewable energy, wildlife habitat, open space, and carbon
9 storage. For these reasons, maintaining a base of forest lands that
10 may be utilized for commercial forestry is of utmost importance to the
11 state.

12 **Sec. 2.** RCW 76.09.010 and 1999 sp.s. c 4 s 901 are each amended to
13 read as follows:

14 (1) The legislature hereby finds and declares that the forest land
15 resources are among the most valuable of all resources in the state;
16 that a viable forest products industry is of prime importance to the
17 state's economy; that it is in the public interest for public and
18 private commercial forest lands to be managed consistent with sound

1 policies of natural resource protection; that coincident with
2 maintenance of a viable forest products industry, it is important to
3 afford protection to forest soils, fisheries, wildlife, water quantity
4 and quality, air quality, recreation, and scenic beauty.

5 (2) The legislature further finds and declares it to be in the
6 public interest of this state to create and maintain through the
7 adoption of this chapter a comprehensive statewide system of laws and
8 forest practices rules which will have a balanced focus of voluntary,
9 incentive-based measures, provide meaningful incentives for landowners,
10 and achieve the following purposes and policies:

11 (a) Promote and foster the economic success of the forest products
12 industry with the goal of keeping forestry as a priority land use, and
13 helping to secure the timber managing, growing, harvesting,
14 transporting, and manufacturing jobs made possible by a vibrant working
15 forest land base;

16 (b) Afford protection to, promote, foster and encourage timber
17 growth, and require such minimum reforestation of commercial tree
18 species on forest lands as will reasonably utilize the timber growing
19 capacity of the soil following current timber harvest;

20 ((+b)) (c) Afford protection to forest soils and public resources
21 by utilizing all reasonable methods of technology in conducting forest
22 practices;

23 ((+c)) (d) Recognize both the public and private interest in the
24 profitable growing and harvesting of timber;

25 ((+d)) (e) Promote efficiency by permitting maximum operating
26 freedom consistent with the other purposes and policies stated herein;

27 ((+e)) (f) Provide for regulation of forest practices so as to
28 avoid unnecessary duplication in such rules;

29 ((+f)) (g) Provide for interagency input and intergovernmental and
30 tribal coordination and cooperation;

31 ((+g)) (h) Achieve compliance with all applicable requirements of
32 federal and state law with respect to nonpoint sources of water
33 pollution from forest practices;

34 ((+h)) (i) To consider reasonable land use planning goals and
35 concepts contained in local comprehensive plans and zoning regulations;

36 ((+i)) (j) Foster cooperation among managers of public resources,
37 forest landowners, Indian tribes, and the citizens of the state; and

1 (~~(j)~~) (k) Develop a watershed analysis system that addresses the
2 cumulative effect of forest practices on, at a minimum, the public
3 resources of fish, water, and public capital improvements of the state
4 and its political subdivisions.

5 (3) The legislature further finds and declares that it is also in
6 the public interest of the state to encourage forest landowners to
7 undertake corrective and remedial action to reduce the impact of mass
8 earth movements and fluvial processes.

9 (4) The legislature further finds and declares that it is in the
10 public interest that the applicants for state forest practices permits
11 should assist in paying for the cost of review and permitting necessary
12 for the environmental protection of these resources.

13 **Sec. 3.** RCW 76.09.040 and 2009 c 246 s 1 are each amended to read
14 as follows:

15 (1)(a) Where necessary to accomplish the purposes and policies
16 stated in RCW 76.09.010, and to implement the provisions of this
17 chapter, the board shall adopt forest practices rules pursuant to
18 chapter 34.05 RCW and in accordance with the procedures enumerated in
19 this section that:

20 (~~(a)~~) (i) Promote and foster a sound economic future for the
21 forest products industry;

22 (ii) Establish minimum standards for forest practices;

23 (~~(b)~~) (iii) Provide procedures for the voluntary development of
24 resource management plans, including voluntary conservation measures
25 proposed under section 4 of this act, which may be adopted as an
26 alternative to the minimum standards in (a)(ii) of this subsection if
27 the plan is consistent with the purposes and policies stated in RCW
28 76.09.010 and the plan meets or exceeds the objectives of the minimum
29 standards;

30 (~~(c)~~) (iv) Set forth necessary administrative provisions;

31 (~~(d)~~) (v) Establish procedures for the collection and
32 administration of forest practice fees as set forth by this chapter;
33 and

34 (~~(e)~~) (vi) Allow for the development of watershed analyses.

35 (b) Forest practices rules pertaining to water quality protection
36 shall be adopted by the board after reaching agreement with the

1 director of the department of ecology or the director's designee on the
2 board with respect thereto. All other forest practices rules shall be
3 adopted by the board.

4 (c) Forest practices rules shall be administered and enforced by
5 either the department or the local governmental entity as provided in
6 this chapter. Such rules shall be adopted and administered so as to
7 give consideration to all purposes and policies set forth in RCW
8 76.09.010.

9 (2)(a) The board shall prepare proposed forest practices rules. In
10 addition to any forest practices rules relating to water quality
11 protection proposed by the board, the department of ecology may submit
12 to the board proposed forest practices rules relating to water quality
13 protection.

14 (b)(i) Prior to initiating the rule-making process, the board must
15 both satisfy the requirements of section 4 of this act and submit any
16 proposed rules ((shall be submitted)) for review and comments to the
17 department of fish and wildlife and to the counties of the state.
18 After receipt of the proposed forest practices rules, the department of
19 fish and wildlife and the counties of the state shall have thirty days
20 in which to review and submit comments to the board, and to the
21 department of ecology with respect to its proposed rules relating to
22 water quality protection.

23 (ii) After the expiration of ((such)) the thirty day period, the
24 board and the department of ecology shall jointly hold one or more
25 hearings on the proposed rules pursuant to chapter 34.05 RCW. ((At
26 such hearing(s)) Any county representative may propose specific forest
27 practices rules relating to problems existing within ((such)) the
28 county at the hearings.

29 (iii) The board may adopt and the department of ecology may approve
30 such proposals if they find the proposals are consistent with the
31 purposes and policies of this chapter. However, if the board is
32 presented with two or more alternative proposed rules for adoption, the
33 board must adopt the rule that retains the greatest economic value to
34 forestry while achieving the minimum standard necessary requirements if
35 the level of environmental protection achieved by one of the
36 alternative rule proposals cannot be shown to substantially have more
37 benefits to the resource.

1 (3)(a) The board shall establish by rule a program for the
2 acquisition of riparian open space and critical habitat for threatened
3 or endangered species as designated by the board. Acquisition must be
4 a conservation easement. Lands eligible for acquisition are forest
5 lands within unconfined channel migration zones or forest lands
6 containing critical habitat for threatened or endangered species as
7 designated by the board. Once acquired, these lands may be held and
8 managed by the department, transferred to another state agency,
9 transferred to an appropriate local government agency, or transferred
10 to a private nonprofit nature conservancy corporation, as defined in
11 RCW 64.04.130, in fee or transfer of management obligation. The board
12 shall adopt rules governing the acquisition by the state or donation to
13 the state of such interest in lands including the right of refusal if
14 the lands are subject to unacceptable liabilities. The rules shall
15 include definitions of qualifying lands, priorities for acquisition,
16 and provide for the opportunity to transfer such lands with limited
17 warranties and with a description of boundaries that does not require
18 full surveys where the cost of securing the surveys would be
19 unreasonable in relation to the value of the lands conveyed. The rules
20 shall provide for the management of the lands for ecological protection
21 or fisheries enhancement. For the purposes of conservation easements
22 entered into under this section, the following apply: (~~(a)~~) (i) For
23 conveyances of a conservation easement in which the landowner conveys
24 an interest in the trees only, the compensation must include the timber
25 value component, as determined by the cruised volume of any timber
26 located within the channel migration zone or critical habitat for
27 threatened or endangered species as designated by the board, multiplied
28 by the appropriate quality code stumpage value for timber of the same
29 species shown on the appropriate table used for timber harvest excise
30 tax purposes under RCW 84.33.091; (~~(b)~~) (ii) for conveyances of a
31 conservation easement in which the landowner conveys interests in both
32 land and trees, the compensation must include the timber value
33 component in (a)(i) of this subsection plus such portion of the land
34 value component as determined just and equitable by the department.
35 The land value component must be the acreage of qualifying channel
36 migration zone or critical habitat for threatened or endangered species
37 as determined by the board, to be conveyed, multiplied by the average
38 per acre value of all commercial forest land in western Washington or

1 the average for eastern Washington, whichever average is applicable to
2 the qualifying lands. The department must determine the western and
3 eastern Washington averages based on the land value tables established
4 by RCW 84.33.140 and revised annually by the department of revenue.

5 ~~((+4))~~ (b) Subject to appropriations sufficient to cover the cost
6 of such an acquisition program and the related costs of administering
7 the program, the department must establish a conservation easement in
8 land that an owner tenders for purchase; provided that such lands have
9 been taxed as forest lands and are located within an unconfined channel
10 migration zone or contain critical habitat for threatened or endangered
11 species as designated by the board. Lands acquired under this section
12 shall become riparian or habitat open space. These acquisitions shall
13 not be deemed to trigger the compensating tax of chapters 84.33 and
14 84.34 RCW.

15 ~~((+5))~~ (c) Instead of offering to sell interests in qualifying
16 lands, owners may elect to donate the interests to the state.

17 ~~((+6))~~ (d) Any acquired interest in qualifying lands by the state
18 under this section shall be managed as riparian open space or critical
19 habitat.

20 NEW SECTION. **Sec. 4.** A new section is added to chapter 76.09 RCW
21 to read as follows:

22 (1) Prior to adopting new forest practices rules under RCW
23 76.09.040, the board is required, when appropriate, to propose related
24 incentives for landowners to provide voluntary conservation measures.
25 The proposed voluntary conservation measures must include criteria for
26 evaluating whether or not the intended outcomes of the measures are
27 being achieved, and the identification of the party or parties
28 responsible for conducting the evaluation.

29 (2) Proposed voluntary conservation measures that require public
30 funding for a new or expanded landowner incentive program or a similar
31 initiative only satisfy the requirements of this section if adequate
32 funding for the initiative has been secured concurrently with the
33 adoption of the proposal.

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