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SENATE BILL 6256

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State of Washington

61st Legislature

2010 Regular Session

By Senators Jacobsen, Morton, Hatfield, Shin, Regala, and Parlette

Read first time 01/11/10. Referred to Committee on Natural Resources, Ocean & Recreation.

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 ((+e)) (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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