

FINAL BILL REPORT

E2SHB 2238

C 62 L 12
Synopsis as Enacted

Brief Description: Regarding environmental mitigation.

Sponsors: House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Wilcox, Clibborn, Armstrong, Billig, Takko, Rivers, Angel, Hinkle, Schmick, Orcutt, Johnson, Warnick, Dahlquist, Blake and Chandler).

House Committee on Environment
House Committee on Agriculture & Natural Resources
House Committee on General Government Appropriations & Oversight
Senate Committee on Transportation

Background:

Both the state and federal governments require a proponent of a project that will diminish the function of an existing wetland to mitigate that loss of function. This duty is called compensatory wetland mitigation. The project proponent has a number of options available to him or her for mitigating wetland loss; however, any mitigation plan must be approved by the state (primarily through the Department of Ecology) and the United States Army Corps of Engineers.

Projects that disturb wetlands are expected to undergo a sequencing review. Actual compensation for wetland loss does not occur unless the loss cannot be avoided or minimized through project planning. Once mitigation requirements are triggered, a project proponent must develop a mitigation plan that either restores the damaged wetland, creates new wetland functions at a new site, enhances an existing wetland, or preserves an at-risk wetland.

Summary:

The opportunity for a new environmental mitigation option is created for the proponents of projects that reduce existing wetland function or otherwise negatively affect the environment. This option is for the project proponent to coordinate with the Department of Ecology (DOE) or of the Department of Fish and Wildlife (DFW) and pair the mitigation investment made by the project proponent with the funding needs of one of three existing state programs: the Forestry Riparian Easement Program, the Riparian Open Space Program, and the Family Forest Fish Passage Program. The Department of Natural Resources is authorized to serve as

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.

a resource to project proponents, the DOE, and the DFW when identifying potential projects within the three programs that could be utilized in a mitigation plan. The inclusion of funding for one of these three programs in any mitigation plan may not be additive to any existing mitigation requirements.

To prepare for the implementation of the new mitigation option, the DOE and the DFW must prepare two reports to the Legislature. The first report, due December 31, 2012, must summarize any successes in utilizing the existing three state programs as an element of a mitigation plan and identify any constraints that were uncovered in the early implementation of the new mitigation option. The second report is due on December 31, 2013. This report must identify any other existing program that may be appropriate for inclusion in a mitigation plan and explore the feasibility of developing new programs.

The DOE and the DFW are both provided with specific authority to seek federal, private, and in-kind funds to implement the new mitigation option and to complete the required reports.

Votes on Final Passage:

House	88	9
Senate	42	7

Effective: June 7, 2012