

SENATE BILL REPORT

ESHB 1009

As Reported by Senate Committee On:
Natural Resources & Marine Waters, March 25, 2011

Title: An act relating to the authority of state agencies to enter into agreements with the federal government under the endangered species act.

Brief Description: Concerning the authority of certain state agencies to enter into agreements with the federal government under the endangered species act.

Sponsors: House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Chandler, Blake, Takko, Kretz, Taylor, Orcutt, McCune and Pearson).

Brief History: Passed House: 3/04/11, 91-6.

Committee Activity: Natural Resources & Marine Waters: 3/14/11, 3/25/11 [DPA].

SENATE COMMITTEE ON NATURAL RESOURCES & MARINE WATERS

Majority Report: Do pass as amended.

Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton, Ranking Minority Member; Fraser, Hargrove and Swecker.

Staff: Curt Gavigan (786-7437)

Background: Federal Endangered Species Act Generally. Congress passed the federal Endangered Species Act (ESA) in 1973, which provides protection for threatened and endangered species. An endangered species is a species in danger of extinction throughout all or part of its historic range. A threatened species is a species likely to become endangered within the foreseeable future. The ESA generally prohibits take of a listed species, which includes harassing, harming, or killing such species.

Habitat Conservation Plans. An incidental take permit allows a person to legally proceed with an activity that would otherwise result in illegal take of a listed species. A habitat conservation plan (HCP) must accompany an application for an incidental take permit. An HCP must include an assessment of likely impacts, measures to minimize and mitigate for such impacts, alternatives evaluated by the applicant, and any additional measures required by the federal government. The federal government will issue an incidental take permit if the taking will be incidental, the applicant will minimize and mitigate impacts, adequate funding

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for the plan is available, and the taking will not reduce the likelihood of survival and recovery.

Summary of Bill (Recommended Amendments): The Departments of Fish and Wildlife, Natural Resources, and Ecology and the State Parks and Recreation Commission must each provide an annual report to the Legislature by October 1 of each year that includes:

- a summary of any plans or actions taken by the agency to develop a new HCP; and
- a brief update on the status of, and major outcomes under, any existing agency HCPs.

EFFECT OF CHANGES MADE BY NATURAL RESOURCES & MARINE WATERS COMMITTEE (Recommended Amendments): The committee amendment strikes the underlying language and requires an annual report on agency HCPs with the federal government. The underlying bill directs the agencies to provide information to the appropriate committees of the Legislature prior to seeking or dedicating funding to develop a new HCP or develop a major amendment to an existing HCP. The information must include (1) the proposed timeline of and budget for the HCP; and (2) an economic analysis comparing the decision to enter or not enter the HCP.

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 on Engrossed Substitute House Bill: PRO: HCPs are important in Washington. However, too often agencies enter into these agreements without locals becoming aware of the process. This bill seeks to bring information about potential HCPs to the public and Legislature in the early stages of development. The agencies appreciate the work that has gone into the current language, though it may be a challenge to conduct economic assessments prior to determining the terms of the HCP.

CON: This bill is improved over its previous form, but there are concerns about what agencies are to do with feedback from legislative committees and how the economic assessment will account for habitat protection.

Persons Testifying: PRO: Representative Chandler, prime sponsor; Jennifer Quan, Department of Fish and Wildlife; Clay Sprague, Department of Natural Resources; Jack Field, Washington Cattlemen's Assn.

CON: Miguel Perez-Gibson, WA Environmental Council.