

# SENATE BILL REPORT

## SB 5551

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As of February 20, 2011

**Title:** An act relating to the forestry riparian easement program.

**Brief Description:** Concerning the forestry riparian easement program.

**Sponsors:** Senators Ranker, Swecker, Sheldon, Regala and Stevens; by request of Commissioner of Public Lands.

**Brief History:**

**Committee Activity:** Natural Resources & Marine Waters: 2/07/11.

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### SENATE COMMITTEE ON NATURAL RESOURCES & MARINE WATERS

**Staff:** Sherry McNamara (786-7402)

**Background:** In 1999 the Legislature created the Forest Riparian Easement Program (FREP) – a program which is administered by the Department of Natural Resources (DNR) Small Forest Landowner Office (SFLO). The program involves DNR acquiring and holding 50 year easements for riparian and other sensitive areas as granted by small forest landowners. Small forest landowners maintain the ability to utilize property subject to an easement, so long as those activities do not impair riparian function.

Compensation. Upon application, the SFLO must determine the compensation appropriate for a riparian easement based on the fair market value of qualifying timber. The SFLO gathers data necessary to determine fair market value by conducting timber cruises. The SFLO must generally provide small forest landowners 50 percent of the fair market value of the qualifying timber, plus compliance and reimbursement costs. Such costs include the cost of entering into the easement, and the costs of laying out stream side buffers and marking qualified timber.

Qualifying Timber. The term "qualifying timber," for purposes of determining the easement size and value, includes trees that a small forest landowner must leave unharvested, or where harvest becomes uneconomical, due to the rules adopted pursuant to the Forest and Fish Agreement.

**Summary of Bill:** Changes the Minimum Requirements for Participation in the FREP Program. Landowners applying for FREP must still show that they satisfy the definition of

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small harvester in the tax code; however, in order to participate in FREP, they must satisfy all three of the following conditions:

- The landowner's ownership interest in the affected parcel must be established in fee before July 1, 2011, or the applicant must be a lineal descendent of a landowner who owned the land in fee prior to that date;
- The landowner must be an individual, partnership, corporation, or other nongovernmental for-profit legal entity; and
- The landowner must be enrolled in an internationally recognized forest certification program, or has a forest stewardship plan that has been approved by DNR.

Expands the Definition of Qualifying Timber. In addition to the existing unharvested trees that are eligible for FREP compensation, certain other forest trees are added. These include forest trees located within riparian habitats, channel migration zones, and on potentially unstable slopes or landforms. DNR must verify that any trees located on unstable slopes are addressed by a forest practices application; are adjacent to a commercially reasonable harvest area; and have the potential to deliver sediment or debris to a public resource.

Changes to Compensation. DNR is required, subject to the availability of appropriated funds, to determine the value of the easement based on timber values on the date the completed FREP application is received and not at the time of the underlying harvest. The compensation for timber on potentially unstable slopes or landform is limited to \$100,000 in a four-year period. The date the 50-year easement term will begin is changed from the date the forest practice application pertaining to the easement area is received to the date the easement is required. The authority for DNR to reimburse qualifying landowners for the costs to prepare the easement is expanded.

Adds a New Process to Look at Potential New Long-term Funding Sources for FREP. The Chair of the Forest Practices Board is required to invite stakeholders to recommend potential long-term funding sources for FREP. The recommendations must be submitted to the Legislature by October 31, 2011.

**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:** PRO: We want to encourage small forest landowners to stay in forestry for the long term. It is difficult and costly for small forest landowners to obtain a forest certification or have a plan approved by DNR. This bill would help to eliminate people who are trying to game the system. Small forest landowners tend to have their land in lower elevations which is also the best salmon habitat. During the forest and fish agreement there were three commitments made to small forest landowners, and FREP was one of them. FREP is a good investment for the state.

OTHER: Only 10 to 15 percent of small forest landowners are certified. This bill does not deal with funding for FREP, and that has been, and will be, the biggest issue for making this program successful.

**Persons Testifying:** PRO: Bridget Moran, DNR; John Stuhlmiller, Washington State Farm Bureau; Miguel Perez-Gibson, Washington Environmental Council.

OTHER: Rick Dunning, Washington Farm Forestry Association.