

# SENATE BILL REPORT

## SB 6026

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As Reported by Senate Committee On:  
Agriculture, Water & Rural Economic Development, January 30, 2012

**Title:** An act relating to maintaining and enhancing the viability of agriculture.

**Brief Description:** Maintaining and enhancing the viability of agriculture.

**Sponsors:** Senators Honeyford, Haugen, Stevens, Morton, Hatfield, Ericksen, Hobbs, Schoesler, Delvin, Shin, Hewitt, Roach and Holmquist Newbry.

**Brief History:**

**Committee Activity:** Agriculture, Water & Rural Economic Development: 1/17/12, 1/26/12, 1/30/12 [DP].

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### SENATE COMMITTEE ON AGRICULTURE, WATER & RURAL ECONOMIC DEVELOPMENT

**Majority Report:** Do pass.

Signed by Senators Hatfield, Chair; Shin, Vice Chair; Honeyford, Ranking Minority Member; Becker, Delvin, Haugen, Hobbs and Schoesler.

**Staff:** Diane Smith (786-7410)

**Background:** Wetlands are defined for the purpose of the Growth Management Act (GMA) to be areas that are inundated or saturated by surface or ground waters at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

The definition of wetlands states that the following are not included: artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, landscape amenities and those unintentionally created after July 1, 1990, by the construction of highways.

The wetlands as defined are included in the definition of critical areas which are to be protected under GMA. GMA also provides for the protection of agricultural lands. Those agricultural lands of long-term commercial significance in counties that are required to, or

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opt to, plan under the act are to be protected through development regulations. These regulations are not to prohibit uses legally existing on any parcel prior to their adoption.

The Federal Food Security Act (FFSA) of 1985 contains a definition of prior converted wetlands. The term converted wetland means any wetland that has been drained, dredged, filled, leveled, or otherwise manipulated for the purpose of producing an agricultural commodity.

Wetlands designated as prior converted crop land are a type of wetland that is exempt from regulation by the federal government as long as it remains in agricultural use.

**Summary of Bill:** Wetlands converted to agricultural use prior to the effective date of the FFSA of 1985 are not to be considered as wetlands under the GMA, the state Water Pollution Control Act, and the Shoreline Management Act.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**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: This bill protects agriculture. An oversight in the definition of agriculture should be amended to include upland shellfish agriculture. The state's largest industry cannot allow conversion of agricultural land to other uses. This bill harmonizes our law with federal law and local wetland policy; it brings certainty to agriculture. It is compatible with GMA goal 8, protecting agricultural lands of long-term significance.

CON: The Department of Ecology (DOE) has provided certainty. This bill is not necessary to ensure the ongoing farming of converted wetlands. It creates confusion and could have unintended consequences. Prior converted cropland was used in the federal law to determine eligibility for federal farm subsidies. These lands are subject to federal regulation when taken out of agricultural use.

**Persons Testifying:** PRO: Jim Jesernig, Pacific Coast Shell Fish Growers; Tom Davis, WA Farm Bureau.

CON: Lauren Driscoll, DOE; April Putney, Futurewise.