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## Local Government Committee

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### HB 1629

**Brief Description:** Prohibiting conversion of agricultural lands to wetlands or fish habitat under the shoreline management act.

**Sponsors:** Representatives Scott, Taylor and Shea.

<p style="text-align: center;"><b>Brief Summary of Bill</b></p> <ul style="list-style-type: none"><li>• Prohibits agricultural land, as defined in the Shoreline Management Act, from being converted to wetland or fish habitat, or from being subjected to tidal inundation.</li></ul>
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**Hearing Date:** 1/27/15

**Staff:** Ethan Moreno (786-7386).

**Background:**

Shoreline Management Act.

The Shoreline Management Act of 1971 (SMA) governs uses of state shorelines and involves a cooperative regulatory approach between local governments and the state. At the local level, the SMA regulations are developed in mandatory city and county shoreline master programs (SMPs) that regulate land use activities in shoreline areas of the state. At the state level, the Department of Ecology (DOE) is charged with reviewing the locally-adopted SMPs and approving those that comply with statutory provisions and agency guidelines governing their adoption. The goals and policies of an approved SMP are an element of the county or city's comprehensive plan adopted under the Growth Management Act (GMA).

A 2002 amendment to the SMA specified that guidelines adopted by the DOE, and SMPs developed or amended by local governments, may not require modification of or limit agricultural activities occurring on agricultural lands. The terms "agricultural activities" and "agricultural lands" were defined in the 2002 amendment and have remained unchanged.

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*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.*

As defined in the SMA, "agricultural lands" means those specific land areas on which agriculture activities are conducted. "Agricultural activities" is defined to mean, in part, agricultural uses and practices including, but not limited to:

- producing, breeding, or increasing agricultural products;
- allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; and
- maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation.

#### Growth Management Hearings Board - Review of Snohomish County Shoreline Master Program.

The Growth Management Hearings Board (Board) is the quasi-judicial body charged with hearing and determining petitions related to the implementation of the GMA. The GMA also gives the Board authority to review SMPs to determine compliance with the SMA.

In 2012, the Snohomish County Farm Bureau (Farm Bureau) challenged an updated and DOE-approved SMP of Snohomish County (*Snohomish County Farm Bureau v. Snohomish County and Washington State Department of Ecology*, Case No. 12-3-0008). Restoration measures authorized in the SMP included dike and levee removals that may result in the inundation of farmlands designated as agricultural lands of long-term commercial significance under the GMA. On March 14, 2013, the Board ruled in favor of Snohomish County and the DOE. In reaching a decision on the case, the Board indicated that the Farm Bureau failed to meet required burden of proof mandates. The Board also noted that its decision outcome "cannot be read as compatible with the GMA resource lands provisions or the Department of Commerce Minimum Guidelines, but it appears to be all that is within the Board's authority under the SMA."

#### **Summary of Bill:**

"Agricultural land," as defined in the SMA, may not be converted to wetland or fish habitat, nor may it be subjected to tidal inundation.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.