
**Agriculture & Natural Resources
Committee**

HB 2285

Brief Description: Establishing a reporting process for the department of natural resources regarding certain marbled murrelet habitat information.

Sponsors: Representatives Chapman, Tarleton, Lytton, Tharinger, Blake and Appleton.

Brief Summary of Bill

- Directs the Department of Natural Resources to provide reports to the Legislature concerning the marbled murrelet habitat conservation plan on state lands, including recommendations for offsetting potential revenue losses to state trust land beneficiaries and recommendations for additional marbled murrelet conservation measures.
- Directs the Commissioner of Public Lands to appoint a marbled murrelet advisory committee.

Hearing Date: 1/10/18

Staff: Robert Hatfield (786-7117).

Background:

Federal Endangered Species Act.

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 protected species, which includes harassing, harming, or killing such species. The United State Fish and Wildlife Service (USFWS) has primary responsibility for ESA administration with regards to threatened and endangered wildlife.

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 habitat conservation plan (HCP) is a tool available to regulated parties under the ESA. An HCP is a voluntary, long-term planning agreement between the federal government and a state, locality, private landowner, or other non-federal party that sets conditions under which certain actions are permitted to occur even though the actions may result in harm to an endangered species. An HCP commonly describes the effects the proposed actions will have on an endangered species, how those impacts will be minimized or mitigated, and how the mitigation will be funded. In addition, an HCP must provide elements which ensure any harm caused will be incidental and that the harm will not appreciably reduce the likelihood of the survival or recovery of the affected species.

In return for agreeing to the provisions of an HCP, the non-federal party is eligible to receive an incidental take permit. This permit allows the non-federal party to proceed with the actions identified in the HCP with certainty that they will not be found in violation of the ESA. The incidental take permit makes the elements of the HCP binding. A violation of the incidental take permit may result in a violation of the ESA.

The Department of Natural Resources.

The Department of Natural Resources (DNR) manages a number of different categories of land on behalf of the State of Washington, each for a specific purpose and under different management requirements.

Board of Natural Resources.

The Board of Natural Resources (Board) sets policies to guide how the DNR manages the state's lands and resources. The Board has several responsibilities: (1) approve or disapprove trust land timber and mineral sales; (2) establish the sustainable harvest level for forested trust lands; (3) approve or disapprove sales or exchanges of trust lands; and (4) guide the DNR's stewardship of state Natural Area Preserves, Natural Resources Conservation Areas, and aquatic or submerged lands.

State Trust Lands.

Upon statehood, the United States granted the State of Washington trust lands to support various public institutions. The DNR now manages approximately 3 million acres of federally granted trust lands that provide revenue for grade schools, state universities, buildings on the capitol campus, and correctional facilities.

State Forest Lands.

The DNR also manages more than 600,000 acres of state forest lands, which were acquired primarily through tax foreclosures in the 1920s and 1930s, and to a lesser extent through purchases by the state or gifts to the state. State forest lands are managed for the benefit of the counties in which the lands are located.

Sustained Yield.

The DNR is required to manage forested state trust lands on a sustained yield basis. To achieve a sustained yield, the DNR must manage the state's forests to provide a continuing harvest level without any prolonged curtailments or cessation of harvests. As part of this obligation, the DNR must periodically adjust the tracts of land that are included in the sustained yield management program, and calculate a sustainable harvest level accordingly.

Arrearage.

Arrearage constitutes the volume of timber that was expected to be sold over the course of a planning decade based on the DNR's sustained yield calculations, but was not. That shortage may then result in lower than expected revenues for trust beneficiaries, which can then in turn impact the ability of the trust beneficiaries to meet their financial obligations.

If an arrearage exists at the end of a planning decade, the DNR must conduct an analysis of the arrearage to determine the course of action regarding the arrearage that provides the greatest return to the trusts, based both upon economic conditions and upon the impacts to the environment that would result from harvesting the additional timber. The DNR must offer for sale the arrearage volume of timber in addition to the sustainable harvest level volume of timber for the next planning decade, if the DNR's analysis determines that doing so will provide the greatest return to the trusts.

Marbled Murrelet.

The marbled murrelet (*Brachyramphus marmoratus*) is a species of bird that resides along the Pacific Coast of North America. The marbled murrelet was listed by the United States Fish and Wildlife Service in 1992 as a threatened species in California, Oregon, and Washington.

In 1997, the State of Washington, through the Department of Natural Resources, entered into a Habitat Conservation Plan for the marbled murrelet on certain trust lands managed by the Department of Natural Resources.

Summary of Bill:

The Department of Natural Resources must provide a report to the Legislature concerning certain aspects of the marbled murrelet Habitat Conservation Plan (HCP), beginning in 2018 and continuing every year until the 1997 marbled murrelet HCP is amended and an incidental take permit has been issued by the United States Fish and Wildlife Service. The report must contain an economic analysis of the net revenue loss or gain to each of the affected trust beneficiaries as a result of the HCP, recommendations to offset potential loss of revenue to trust beneficiaries, recommendations for additional marbled murrelet conservation measures, and recommendations for modifications to the definition of "arrearage" that may provide additional certainty with regard to timber revenues for impacted trust beneficiaries.

The Commissioner of Public Lands must appoint a marbled murrelet advisory committee. The committee may include one or more representatives from state trust lands beneficiaries, impacted state forestland beneficiaries, environmental organizations, local governments, an association representing milling interests, a statewide association to protect forests, local public interest groups, and other interested parties deemed appropriate by the Commissioner. The committee may consult with relevant state and federal agencies and with tribes.

Appropriation: None.

Fiscal Note: Available.

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