

FINAL BILL REPORT

ESHB 2285

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Synopsis as Enacted

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

Sponsors: House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Chapman, Tarleton, Lytton, Tharinger, Blake and Appleton).

House Committee on Agriculture & Natural Resources
Senate Committee on Agriculture, Water, Natural Resources & Parks
Senate Committee on Ways & Means

Background:

Federal Endangered Species Act.

The federal Endangered Species Act (ESA) 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 the taking of protected species, which includes harassing, harming, or killing such species. The United States Fish and Wildlife Service (USFWS) has primary responsibility for administration of the ESA with regard to threatened and endangered wildlife.

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 it will not be found in violation of the ESA.

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.

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.

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.

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 USFWS in 1992 as a threatened species in California, Oregon, and Washington.

In 1997 the State of Washington, through the DNR, entered into a HCP for the marbled murrelet on certain trust lands managed by the DNR.

Summary:

The Department of Natural Resources (DNR) 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 year after the United States Fish and Wildlife Service (USFWS) issues an incidental take permit on the state trust lands HCP for the long-term conservation strategy for the marbled murrelet.

The report must contain:

- an economic analysis of potential losses or gains from any proposed marbled murrelet long-term conservation strategy selected by the Board of Natural Resources (Board), forwarded to or approved by the USFWS and subsequently adopted by the Board;
- recommendations for actions that support maintaining or increasing family-wage timber and related jobs in affected rural communities;
- recommendations for strategies to ensure no net loss of revenues to the trust beneficiaries due to the implementation of additional marbled murrelet conservation measures;
- recommendations for additional means of financing county services; and
- recommendations for additional reasonable, incentive-based, nonregulatory conservation measures for the marbled murrelet that also provide economic benefits to rural communities.

No fewer than 90 days before submitting the report to the Legislature, the DNR must submit a draft of the report for review and comment to the chair and ranking member of the committees of the House of Representatives and Senate with jurisdiction over state lands.

Each regular legislative session, the standing committees with jurisdiction over state trust land management from the House of Representatives and the Senate must each hold a meeting, which may be held as a joint meeting, on the report and the habitat conservation plan update process.

The Commissioner of Public Lands (Commissioner) must appoint a marbled murrelet advisory committee. The committee may include one or more representatives from state trust lands beneficiaries, impacted state forestland beneficiaries, junior taxing districts, environmental organizations, local governments, milling interests or an association representing milling interests, private forest landowners or a statewide association representing private forest landowners, and local public interest groups. The committee may consult with relevant state and federal agencies and with tribes.

The requirements to submit a report and to form an advisory committee expire at the end of the calendar year following the issuance by the USFWS of an incidental take permit on the long-term conservation strategy for the marbled murrelet under the state trust lands HCP and subsequent adoption by the Board.

Votes on Final Passage:

House	54	43	
Senate	35	14	(Senate amended)
House	53	45	(House concurred)

Effective: June 7, 2018