

# HOUSE BILL REPORT

## ESSB 5330

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**As Reported by House Committee On:**  
Rural Development, Agriculture, & Natural Resources  
Appropriations

**Title:** An act relating to analyzing state regulatory impact on small forestland owners.

**Brief Description:** Analyzing state regulatory impact on small forestland owners.

**Sponsors:** Senate Committee on Agriculture, Water, Natural Resources & Parks (originally sponsored by Senators Braun, Van De Wege, Takko, Short, Becker, Rivers, Wagoner and Warnick).

**Brief History:**

**Committee Activity:**

Rural Development, Agriculture, & Natural Resources: 3/15/19, 3/22/19 [DP];  
Appropriations: 4/5/19, 4/8/19 [DPA].

**Brief Summary of Engrossed Substitute Bill**  
**(As Amended by Committee)**

- Requires the School of Environmental and Forest Sciences at the University of Washington to complete a trends analysis, and to report on certain impacts to small forestland owners.

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### HOUSE COMMITTEE ON RURAL DEVELOPMENT, AGRICULTURE, & NATURAL RESOURCES

**Majority Report:** Do pass. Signed by 12 members: Representatives Blake, Chair; Shewmake, Vice Chair; Dent, Assistant Ranking Minority Member; Chapman, Dye, Fitzgibbon, Kretz, Orcutt, Ramos, Schmick, Springer and Walsh.

**Staff:** Rebecca Lewis (786-7339).

**Background:**

The Forests and Fish Law.

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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.*

The Forest and Fish Report (Report) was presented to the Forest Practices Board (Board) and the Governor's Salmon Recovery Office on February 22, 1999. The Report contained recommendations for the development and implementation of rules, statutes, and programs designed to improve and protect riparian habitat on nonfederal forestlands in Washington. The Report was authored by various stakeholders, including the federal government, state government, and various interest and constituency groups. The rules proposed in the Report were designed to provide compliance with the federal Endangered Species Act, restore and maintain minimum riparian habitat to support a harvestable supply of fish, meet Clean Water Act standards, and keep the timber industry economically viable.

The Legislature responded to the Report in 1999 by passing the Forests and Fish Law. The law directed the Board to adopt emergency rules implementing the recommendations of the Report. Among other things, the Forests and Fish Law created the Small Forest Landowner Office (Office) in the Department of Natural Resources and the Forestry Riparian Easement Program (FREP), and directed the development of alternate management plans or harvest restrictions.

#### Small Forest Landowner Office.

The Office was established in 1999 to provide assistance to small forestland owners (SFLOs) in Washington. A SFLO, generally, is an owner of forestland who harvests no more than an average of 2 million board feet of timber from his or her land per year. The Office offers technical assistance to SFLOs, and manages several assistance programs for landowners, including the FREP and the Family Forest Fish Passage Program (FFFPP).

#### Forest Riparian Easement Program.

The FREP is a voluntary program that provides reimbursement to certain SFLOs for trees which they are required to leave unharvested under forest practices rules and in order to protect fish habitat. The FREP provides compensation for a minimum of 50 percent of the timber value, and applies to trees adjacent to streams, wetlands, seeps, or unstable slopes. A SFLO may qualify for the FREP if they own a parcel larger than 20 contiguous acres, or more than 80 forested acres in Washington, the timber harvest would occur next to a stream, river, wetland, or pond, and the harvest does not convert the qualifying land to a use that is incompatible with growing timber.

#### Family Forest Fish Passage Program.

The FFFPP is a cost-share program created in 2003 and administered by the Office that provides SFLOs with financial assistance to remove fish barriers from their property. Enrolled landowners are not required to replace a barrier until the state determines a barrier is a funding priority.

#### Alternate Plans.

The Board must condition the adopted forest practices rules in such a manner that allows forest practices applicants to propose harvest plans as an alternative to the default rules. These alternative plans are to be developed in response to site-specific physical features and

must provide protection to public resources that is equal to the standard harvest rules adopted by the Board. The Board is directed to consult with the Office in developing alternate harvest restrictions for SFLOs.

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**Summary of Bill:**

The School of Environmental and Forest Sciences at the University of Washington (UW School of Environmental and Forest Sciences) must complete a trends analysis and report for the stated purpose of analyzing the state regulatory impact on small forestland owners (SFLOs). The trends analysis and report must address a series of questions in the course of its work, including:

- changes in the number of SFLOs and acreage held by SFLOs, and factors that have led SFLOs to sell their land;
- changes to the use of land no longer owned by SFLOs from forest use to nonforest or other use;
- how the Small Forest Landowner Office and Forestry Riparian Easement Program have been implemented; and
- whether alternate management plans or harvest restrictions have been developed for smaller harvest units, and whether the Family Forest Fish Passage Program has addressed economic impacts to landowners adequately.

The UW School of Environmental and Forest Sciences must report its findings to the appropriate committees of the Legislature and the Forest Practices Board by November 1, 2020. In the report, the work group must include recommendations to improve retention of working forestland held by SFLOs.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) Small forestland owners (SFLOs) were reluctant participants in the Forest and Fish process, and the resulting bill recognized the disproportionate impact the legislation would have on SFLOs. Currently, the SFLO land base is much smaller than it was in 1999 due to conversion of forestland to other uses. The study will answer questions of importance to SFLOs. The updated database that will be created will be a tool for future resource assessments. The Commissioner of Public Lands has acknowledged that the state is failing SFLOs. The third-party review of disproportionate impacts to SFLOs could help focus stakeholder attention, lead to a greater understanding and respect for SFLOs, and result in less forestland conversion. The third-party review could also increase confidence in small

business economic impact statement processes for all small businesses and potentially save the state money due to a reduction in the use of mandatory subsidies. The Department of Natural Resources (DNR) will use the information provided by the study to identify ways to provide resources and incentives to SFLOs in order to keep their working lands on the Washington landscape. Small forestland owners provide a variety of public benefits. This bill is a small investment to help find ways to keep SFLOs on their land. The DNR hopes the analysis will help identify ways to reduce forestland conversion and help keep these businesses economically viable.

(Opposed) None.

**Persons Testifying:** Stephen Bernath, Department of Natural Resources; and Ken Miller and Victor Musselman, Washington Farm Forestry Association.

**Persons Signed In To Testify But Not Testifying:** None.

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** Do pass as amended. Signed by 32 members: Representatives Ormsby, Chair; Bergquist, 2nd Vice Chair; Robinson, 1st Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier, Chandler, Cody, Dolan, Dye, Fitzgibbon, Hansen, Hoff, Hudgins, Jinkins, Kraft, Macri, Mosbrucker, Pettigrew, Pollet, Ryu, Schmick, Senn, Springer, Stanford, Steele, Sullivan, Sutherland, Tarleton, Tharinger and Ybarra.

**Staff:** Dan Jones (786-7118).

### **Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Rural Development, Agriculture, & Natural Resources:**

The bill is null and void unless funding is provided in the omnibus appropriations act by June 30, 2019.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Amended Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

### **Staff Summary of Public Testimony:**

(In support) The trends analysis and report produced from this bill will quantify trends in forestland ownership changes and help to update the database that was last updated in 2007. Information from the database was utilized in several studies and to identify fish passage barriers to be removed in order to help salmon recovery. This database continues to

be an important tool. The third-party review will lead to viability for small forestland owners. The trends analysis and report are good uses of taxpayer dollars and could reduce reliance on mandatory subsidies.

(Opposed) None.

**Persons Testifying:** Elaine Oneil and Ken Miller, Farm Forestry Association.

**Persons Signed In To Testify But Not Testifying:** None.