

SENATE BILL REPORT

SSB 5597

As Amended by House, April 16, 2019

Title: An act relating to creating a work group on aerial herbicide applications in forestlands.

Brief Description: Creating a work group on aerial herbicide applications in forestlands.

Sponsors: Senate Committee on Agriculture, Water, Natural Resources & Parks (originally sponsored by Senators Rolfes, Saldaña, McCoy, Conway and Hasegawa).

Brief History:

Committee Activity: Agriculture, Water, Natural Resources & Parks: 2/07/19, 2/21/19 [DPS, w/oRec].

Floor Activity:

Passed Senate: 3/04/19, 47-0.

Passed House: 4/16/19, 95-1.

Brief Summary of First Substitute Bill

- Establishes a legislative work group to develop recommendations for improving the best management practices for aerial application of pesticides on state and private forestlands.
- Requires that the legislative work group must report its findings, recommendations, and draft legislation to the Governor, the Legislature, and the Forest Practices Board by November 10, 2019.

SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

Majority Report: That Substitute Senate Bill No. 5597 be substituted therefor, and the substitute bill do pass.

Signed by Senators Van De Wege, Chair; Salomon, Vice Chair; Warnick, Ranking Member; McCoy, Rolfes and Short.

Minority Report: That it be referred without recommendation.

Signed by Senator Honeyford.

Staff: Karen Epps (786-7424)

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.

Background: The Department of Natural Resources (DNR) manages a number of different categories of land, each for a specific purpose and under different management requirements.

State Trust Lands. Upon statehood, the United States granted the State of Washington over 3 million acres to support various public institutions. DNR now manages over 2 million acres of federally granted trust lands to provide revenue for public schools, state universities, buildings on the capitol campus, and correctional facilities. The largest acreage category is for common schools, with almost 1.8 million acres.

State Forest Lands. 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.

Forest Practice Applications. The Forest Practices Act establishes four classes of forest practices based on the potential for a proposed operation to adversely affect public resources. The Forest Practices Board (Board) establishes standards that determine which forest practices are included in each class. This includes standards for forest practices such as timber harvest, pre-commercial thinning, road construction, fertilization, and forest chemical application. DNR processes and reviews applications and administers the forest practices program within the rules of the Board.

Summary of First Substitute Bill: A work group is established to review all existing best management practices, and, if necessary, develop recommendations for improving the best management practices for aerial application of herbicides on state and private forestlands, including criteria to be used in evaluating best management practices. The work group is composed of one member and one alternate from each of the two largest caucuses in the House of Representatives and the Senate. One co-chair must be a member of the majority caucus of one chamber of the Legislature and one co-chair must be from the minority caucus of the other chamber. The work group includes representatives from:

- DNR;
- the Department of Agriculture;
- the Department of Fish and Wildlife;
- the Department of Ecology;
- the Department of Health; and
- the Washington State University Pesticide Safety Program.

The work group also includes representatives from the following groups, appointed by consensus of the co-chairs:

- small forestland owners and large forestland owners;
- large-scale organic farming owners;
- aerial applicators;
- environmental or community interests;
- someone with noxious weed control experience;
- someone with pesticide registrant experience; and
- any others that will provide scientific, policy, or economic information to the work group.

Additionally, Washington tribes that are involved in timber production must be invited to participate on the work group.

The work group must review the roles of all management and regulatory agencies in approving herbicides for use and application on forestlands in Washington State and review existing state and federal programs, policies, and regulations concerning aerial application of herbicides on forestlands. The work group must also review current herbicide application technology in the state and throughout the nation to increase herbicide application accuracy and other best management practices to minimize drift and exposure to humans, fish, and wildlife as well as impacts on drinking water, surface waters, and wetland areas.

The work group must review research, reports, and data from government agencies, research institutions, nongovernmental organizations, and landowners regarding the most frequently used herbicides in forest practices, to inform the development and update of strategies related to herbicides management on forestlands. The work group must develop recommendations, if appropriate, for managing working forestlands through an integrated pest management approach that combines traditional chemical and other vegetative control methods means as well as other silvicultural practices to protect resource values from pests, while minimizing the effect on nontarget species as well as ensuring the protection of public safety and human health, while still offering effective control that is economically feasible on a commercial forestry scale.

Staff support for the work group must be provided by Senate Committee Services and the House of Representatives Office of Program Research. The work group must submit any findings, recommendations, and draft legislation, to the Governor, the Legislature, and the Forest Practices Board, by November 10, 2019.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: Yes.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This bill is based on a bill that the Legislature passed last year that brought the agricultural community together with folks with environmental concerns and that the process appeared to work well. This bill is designed to take a fresh look at forest practices in the state and pesticide use in the state as well as bringing community members and environmental advocates together to share new technologies and new ideas. This bill is a step in the right direction, however pesticides that are toxic in general are completely unacceptable. It is time to move to sustainable practices. The concern is about exposure from well water consumption because wells, surface water, and water for the orcas and the salmon is being poisoned and there should be an outright ban. The work group should be formed but the goal should be to end aerial spraying of toxins on our ecosystems. The work group needs more organic farmers and environmentalists and members of the tribes on the group not only industry people.

OTHER: The questions raised in the bill for the work group to answer are pertinent and the answers to these questions will provide the Legislature with clear reassurances that the pesticide regulatory system governing applications in forest lands is robust and comprehensive. This bill will provide an opportunity for legislators and state agencies to learn more about the existing regulatory structure under the forest practices act and the public to learn more about forestry, and the existing pesticide regulatory process. The work group recommendations may provide some further reduction of unnecessary exposure to pesticides for both people and the environment and will assist the forest practice board when developing best management practices. This work group has the opportunity to dig deep into the technological advancements and scientific work completed in the forestry arena over the last decades. Knowing where forest practices have been will help state regulators determine where forest practices need to go and that is timely and valuable.

Persons Testifying: PRO: Senator Christine Rolfes, Prime Sponsor; Stephen Bernath, Deputy for Forest Practices, DNR; Pamela Keleey, Kitsap Environmental Coalition; Ellen O'Shea, Jefferson County Coalition to Stop Aerial Spraying and Eaglemount Farms; Chelsea Pronovost, Jefferson County Coalition to Stop Aerial Spraying.

OTHER: Jason Callahan, Washington Forest Protection Association; Heather Hansen, Washington Friends of Farms and Forest; Bruce Alber, Certified Forester; Lauren Jenks, Washington State Department of Health; Kelly McLain, WSDA.

Persons Signed In To Testify But Not Testifying: No one.

EFFECT OF HOUSE AMENDMENT(S):

- Removes language specifying that the work group is a legislative work group.
- Adds one industrial forestland owner to the work group and specifies that one must be from the east side of the Cascades and the other from the west side of the Cascades.
- Adds a representative from Pacific Northwest Agricultural Safety and Health Center at the University of Washington to the work group.
- Removes language providing for additional members of the work group representing any other interest deemed important to providing information.
- Specifies that the work group must be chaired by representatives from the Department of Agriculture and DNR.
- Provides that the Department of Agriculture and DNR must provide staff support for the work group.
- Removes the requirement that the work group report to the Forest Practices Board.
- Changes the due date of the report to December 31, 2019, and extends the expiration date of the work group to December 31, 2020, instead of December 31, 2019.
- Specifies that legislative members may be reimbursed for expenses related to their participation in the work group.
- Deletes the provision requiring non-legislative members to be reimbursed in the same manner as part-time boards and commissions, and provides that any reimbursement for non-legislative members is subject to general provisions regarding state expenses.