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**SUBSTITUTE SENATE BILL 5543**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senate Agriculture, Water, Natural Resources & Parks (originally sponsored by Senator Takko)

READ FIRST TIME 02/22/19.

1 AN ACT Relating to retaining productive farmland; adding a new  
2 section to chapter 89.08 RCW; adding a new section to chapter 43.17  
3 RCW; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that loss of  
6 productive farmland is a critical issue of statewide importance that  
7 puts at risk the long-term viability of agriculture in the state. To  
8 address the issues relating to loss of farmland the legislature, in  
9 2007, created the office of farmland preservation as a program within  
10 the state conservation commission. One of the tasks of the office is  
11 to provide the legislature and governor with an analysis of the  
12 factors contributing to the loss of farmland in the state.

13 (2) State agencies acquire various interests in real property  
14 that range from easements and leases to purchases in fee simple.  
15 Sometimes agencies will acquire an interest in real property that is  
16 currently used as working agricultural land for the production of  
17 food and fiber, or has the potential for such production. In these  
18 acquisitions, the agency plans for the real property may or may not  
19 include the continued use of the land for agricultural production.  
20 When the agency does not continue agricultural production, these  
21 lands may be put to other uses that will permanently remove

1 productive agricultural lands from future use. Given the continuing  
2 loss of productive agricultural lands, the legislature intends to  
3 gather information to determine the scope and extent to which state  
4 agency acquisition of real property contributes to this ongoing loss  
5 of productive agricultural lands.

6 (3) The legislature finds that agricultural lands are also  
7 acquired and in some cases converted to other uses by activities that  
8 are not undertaken by state agencies. It is the intent of the  
9 legislature to gather information on the scope and extent of the  
10 impact of these private activities on agricultural lands.

11 (4) State agencies adopt rules, guidance, and policies that may  
12 impact productive agricultural lands. It is the intent of the  
13 legislature to examine whether additional information is needed to  
14 determine the scope and extent to which agricultural lands may be  
15 impacted by these activities.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 89.08  
17 RCW to read as follows:

18 (1) The commission shall develop a form and process for an  
19 agricultural land assessment to be completed by any state agency  
20 before the acquisition of an interest in real property when the  
21 interest includes agricultural land as defined in this section. The  
22 acquisition of a water right separate from real property is not  
23 considered an interest in real property for the purposes of this  
24 section and is not subject to completion of an agricultural land  
25 assessment form.

26 (2) When developing the agricultural land assessment form and  
27 process, the commission shall consult with affected agencies before  
28 final adoption. The commission may exempt smaller scale acquisitions  
29 and activities from the requirements of this section. The commission  
30 shall work with affected agencies to identify sources of information  
31 that minimize costs to agencies but will still provide the necessary  
32 information.

33 (3) The commission shall report to the governor and legislature  
34 no later than December 1st of each calendar year, which at a minimum  
35 should provide information on the status of the agricultural land  
36 assessment program, the results of the information submitted to the  
37 commission over the previous year, and other factors the commission  
38 deems appropriate to report that fulfill the purposes of this section  
39 and section 3 of this act. The commission may also make

1 recommendations to the governor and legislature on issues raised  
2 through the evaluation of the agricultural land assessment forms.

3 (4) (a) In the first report to the legislature and governor, the  
4 commission shall address the information obtained through the  
5 agricultural land assessment process and other research by the  
6 commission. The first report must contain commission recommendations  
7 on:

8 (i) The potential applicability of the agricultural land  
9 assessment to agency rule-making actions;

10 (ii) The potential applicability to acquisition and land use  
11 activities by federal and local governments;

12 (iii) Whether the agricultural land assessment should be applied  
13 to the state acquisition of an interest in a water right; and

14 (iv) Whether existing processes adequately provide for the  
15 evaluation of impacts to agricultural lands from other project  
16 activities.

17 (b) After consultation with local governments and others, the  
18 commission shall make recommendations on how the agricultural land  
19 assessment could be used to track conversions of agricultural land  
20 through private transactions.

21 (5) An agricultural land assessment completed by an agency  
22 pursuant to this chapter may not be used as the basis for appeal of  
23 an agency action or to otherwise delay or stop the proposed agency  
24 activity described in the agricultural land assessment.

25 (6) The commission must accomplish the tasks in this section  
26 within existing resources.

27 (7) The definitions in this subsection apply throughout this  
28 section unless the context clearly requires otherwise.

29 (a) "Agriculture land assessment" means the document developed by  
30 the state conservation commission and used by agencies consistent  
31 with this section, and is separate and distinct from the detailed  
32 environmental review documents required under chapter 43.21C RCW and  
33 WAC 197-11-400.

34 (b) "Agricultural land" includes land that is: (i) Currently used  
35 for agricultural production; (ii) zoned agricultural land of long-  
36 term commercial significance; or (iii) otherwise zoned as  
37 agricultural land by a local jurisdiction. "Agricultural land" does  
38 not include timberland as defined in RCW 84.40.032.

1 (c) "Interest in real property" includes an easement, lease, any  
2 interest in fee simple or less than fee simple, a restrictive  
3 covenant, or a deferred purchase mechanism.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.17  
5 RCW to read as follows:

6 (1) Except as provided in subsection (2) of this section, all  
7 state agencies including all state departments, boards, councils,  
8 commissions, and state universities, colleges, and community colleges  
9 shall complete an agricultural land assessment in the form and  
10 process described and adopted by the Washington state conservation  
11 commission pursuant to chapter 89.08 RCW before acquisition of an  
12 interest in real property, except any interest in a water right, as  
13 defined in section 2 of this act. Agricultural land does not include  
14 timberland as defined in RCW 84.40.032.

15 (2) This section does not apply to the following:

16 (a) Any interest in a water right; and

17 (b) Any acquisition by the department of transportation of a  
18 right-of-way obtained for the construction, operation, maintenance,  
19 or mitigation of a transportation or related facility and in  
20 compliance with RCW 47.01.305.

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