

HOUSE BILL REPORT

SSB 5411

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

Title: An act relating to establishing a programmatic safe harbor agreement on forestlands for northern spotted owls.

Brief Description: Establishing a programmatic safe harbor agreement on forestlands for northern spotted owls.

Sponsors: Senate Committee on Agriculture, Water, Natural Resources & Parks (originally sponsored by Senator Stanford; by request of Department of Natural Resources).

Brief History:

Committee Activity:

Rural Development, Agriculture & Natural Resources: 2/22/22, 2/23/22 [DP].

Brief Summary of Substitute Bill

- Authorizes the Department of Natural Resources to enter into and administer a programmatic safe harbor agreement for the northern spotted owl for any forestland owner.
- Authorizes the Forest Practices Board to adopt or amend rules as necessary to implement the programmatic safe harbor agreement.

HOUSE COMMITTEE ON RURAL DEVELOPMENT, AGRICULTURE & NATURAL RESOURCES

Majority Report: Do pass. Signed by 15 members: Representatives Chapman, Chair; Shewmake, Vice Chair; Chandler, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Fitzgibbon, Klicker, Kloba, Kretz, Lekanoff, McEntire, Morgan, Orcutt, Ramos, Schmick and Springer.

Staff: Robert Hatfield (786-7117).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background:

The northern spotted owl was listed as an endangered species in Washington by the Washington Fish and Wildlife Commission in 1988 and was listed as a threatened species under the federal Endangered Species Act (ESA) in 1990.

Under a safe harbor agreement, participating landowners voluntarily undertake management activities on their properties to enhance, restore, or maintain habitat benefiting species listed under the ESA. A safe harbor agreement encourages private and other non-federal property owners to implement conservation efforts for listed species by assuring property owners they will not be subject to increased land use restrictions as a result of efforts to attract or increase the numbers or distribution of a listed species on their property.

Summary of Bill:

The Department of Natural Resources (DNR) may administer a programmatic safe harbor agreement for the northern spotted owl for any forestland owner. Participation in this agreement by forestland owners is strictly voluntary. The DNR must consult with the Washington Department of Fish and Wildlife (WDFW) for technical assistance regarding habitat assessments of candidate parcels and implementation of the safe harbor agreement. The DNR and the WDFW must enter into and maintain an interagency agreement to ensure implementation of the state's obligations under the safe harbor agreement and to ensure WDFW is available to support the safe harbor agreement.

When administering the programmatic safe harbor agreement for the northern spotted owl, the DNR is granted authority to administer the federal permit, monitor compliance with the terms of certificates of inclusion, suspend or terminate landowner participation from the program, and provide all other landowner technical assistance as needed to facilitate program implementation. The DNR must be able to access candidate parcels to ensure program eligibility or compliance under the safe harbor agreement.

The Forest Practices Board (FPB) may adopt or amend rules to implement the safe harbor agreement. Decisions by the DNR to issue certificates of inclusion or to suspend or terminate a landowner's participation in the program may be reviewed in the same manner as forest practices applications.

The provisions of the bill are subject to the appropriation of funds.

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) There is support for the collaborative process represented in this bill. The roots of this process began in 2008, when the FPB began to look at incentive-based measures. This changed the dynamic from one of fear and resistance to one of partnership. The bill builds on the work of an existing working group. The bill represents an incentive-based approach that supports northern spotted owl habitat while also maintaining rural economies. The working group process was a result of a lawsuit filed in the early 2000s. The participants in the working group process were largely the parties to the litigation.

This is agency-request legislation. It would authorize the DNR to enter into a programmatic safe harbor agreement with the United States Fish and Wildlife Service. The bill would enhance the FPB's efforts to incentivize forest landowners to grow older stands of trees that support northern spotted owl habitat. It would be a voluntary opt-in opportunity that reduces the fear of liability under the ESA if some of the older trees get harvested. The bill has no impact on the statewide forest practices habitat conservation plan. The WDFW would provide technical expertise in support of the safe harbor agreement. The bill would provide incentives to landowners, especially small landowners, to grow older forests. The agreement would apply only in the traditional range of the northern spotted owl.

There is a growing sense that the best way to increase the amount of habitat for the northern spotted owl is through voluntary incentive measures. One of the groups of people that stand to benefit most from the approach in the bill is small forest landowners. If landowners are in the range of the northern spotted owl but want to hold their trees to 60 or 70 years old before harvesting, they might otherwise not be able to do that, but under the agreement, they can hold their trees longer. Any habitat that a landowner produces above a beginning baseline can then be harvested later under a safe harbor agreement.

(Opposed) None.

Persons Testifying: Jason Callahan, Washington Forest Protection Association; Alex Smith, Department of Natural Resources; and Paula Swedeen, Conservation Northwest.

Persons Signed In To Testify But Not Testifying: None.