

SENATE BILL REPORT

SB 5306

As of February 4, 2021

Title: An act relating to local salmon habitat recovery planning in critical areas.

Brief Description: Concerning local salmon habitat recovery planning in critical areas.

Sponsors: Senators Salomon, Lovelett, Van De Wege, Wellman and Wilson, C..

Brief History:

Committee Activity: Agriculture, Water, Natural Resources & Parks: 2/04/21.

Brief Summary of Bill

- Requires the Department of Fish and Wildlife to adopt conservation and restoration guidelines to assist counties and cities in the preservation and enhancement of anadromous fisheries, as part of designating and protecting critical areas under the Growth Management Act.
- Requires counties and cities to review and update critical areas policies and development regulations to implement the guidelines.

SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

Staff: Karen Epps (786-7424)

Background: Growth Management Act. The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. Originally enacted in 1990 and 1991, the GMA establishes land use designation for all Washington counties and cities, and additional planning duties for 29 counties, and the cities within those counties, obligated to satisfy all planning requirements of the GMA.

The GMA directs jurisdictions fully planning under the GMA to adopt internally consistent

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.

comprehensive land use plans that are generalized, coordinated land use policy statements of the governing body. Counties and cities within those counties must take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of the GMA as follows:

- on or before June 30, 2024, and every eight years thereafter, for King, Pierce, and Snohomish counties and the cities within those counties;
- on or before June 30, 2025, and every eight years thereafter, for Clallam, Clark, Island, Jefferson, Kitsap, Mason, San Juan, Skagit, Thurston, and Whatcom counties and cities within those counties;
- on or before June 30, 2026, and every eight years thereafter, for Benton, Chelan, Cowlitz, Douglas, Kittitas, Lewis, Skamania, Spokane, and Yakima counties and the cities within those counties; and
- on or before June 30, 2027, and every eight years thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

Growth Management Act—Critical Areas. The GMA requires all cities and counties in Washington to adopt critical area regulations. Critical areas include the following areas and ecosystems: wetlands; areas with a critical recharging effect on aquifers used for potable water; fish and wildlife habitat conservation areas; frequently flooded areas; and geologically hazardous areas. Counties and cities are required to include the best available science in developing policies and development regulations to protect the functions and values of critical areas. Counties and cities must also give special consideration to conservation and protection measures necessary to preserve or enhance anadromous fisheries. All jurisdictions are required to review, evaluate, and if necessary, revise their critical areas ordinances according to the update schedule.

The Department of Commerce (Commerce) is required to adopt guidelines to guide the classification of critical areas. The critical areas guidance document produced by Commerce is called the Critical Areas Handbook.

Regional Salmon Recovery Plans. Recovery plans are developed and adopted under the federal Endangered Species Act (ESA) when a species has been listed as threatened or endangered. Recovery plans are developed with the input of multiple parties, including federal, state, and tribal governments. Recovery plans for salmon and steelhead are published by the National Oceanic and Atmospheric Administration, Fisheries. Regional salmon recovery plans have been adopted for multiple regions within Washington, including Puget Sound. The Puget Sound Salmon Recovery Plan includes individual recovery plans for individual watersheds within the broader Puget Sound region.

Summary of Bill: The Department of Fish and Wildlife (DFW) must adopt conservation and restoration guidelines to assist counties and cities in preserving and enhancing anadromous fisheries, as part of designating and protecting critical areas under the GMA.

The guidelines must identify:

- priority marine nearshore, as well as, stream segments and riparian habitat representing the most important habitat areas to preserve through public acquisition or other conservation measures, including core spawning areas, as well as, migratory and rearing corridors for salmon species;
- incompatible land uses with salmon recovery and habitat preservation; and
- methods for improving and preserving salmon habitat.

DFW must consult with tribal fisheries restoration experts and other interested parties in developing the guidelines. DFW must complete the guidelines by January 1, 2022, to allow cities and counties to update critical areas policies and development regulations as part of their next periodic review. DFW and Commerce may exclude a county or city from elements of the guidelines if the county or city has no, or minimal areas of critical habitat for salmon stocks listed under the ESA.

Counties and cities must review and update critical areas policies and development regulations to implement the guidelines. Counties and cities may adopt land use regulations, acquire critical habitat lands, enact incentives, and establish other measures and policies to implement the guidelines.

Counties and cities within those counties with review and updates of comprehensive plans due in 2023 and 2024, must begin implementing the guidelines on January 1, 2022, to include implementation of the guidelines as part of the review and update. All other counties and cities within those counties must implement the guidelines by June 30, 2026.

Counties with review of comprehensive plans due in 2025, 2026, and 2027, may begin implementing the guidelines at any time within 24 months following the June 30, 2026 deadline if the county has a population of less than 50,000 and has had its population increase by no more than 17 percent in the ten years preceding the deadline.

Cities with review of comprehensive plans due in 2025, 2026, and 2027, may begin implementing the guidelines at any time within 24 months following the June 30, 2026 deadline if the city has a population of no more than 5,000 and has had its population increase by the greater of either no more than 100 persons or no more than 17 percent in the ten years preceding the deadline.

Commerce must consult with DFW regarding conservation and protection of anadromous fisheries in developing critical areas guidelines, using the newly established DFW guidelines. Representatives of conservation organizations are added as interested parties to be consulted with by Commerce in the adoption of guidelines regarding the classification of agricultural lands, forestlands, mineral resource lands, and critical areas. DFW and Commerce must review and report on county and city adoption of critical areas policies and development regulations that implement the guidelines by December 1, 2023.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: The state is working very hard to recover salmon populations and is reclaiming habitat in some areas. In other areas, there are pressures from growth, and salmon habitat is lost faster than it is being gained. This bill will add a lens on what salmon habitat needs are at the local level and a closer analysis that will save salmon habitat as development occurs. The bill exempts areas that do not have salmon habitat. The biggest and toughest issue facing southern resident orca whales is the lack of food, lack of salmon. Protecting salmon habitat is an important step to saving southern resident orca whales. Salmon play a critical role in our ecosystem and their recovery must be prioritized, which means restoring and protecting their habitat through this bill. Washington's river systems are in need of restoration. Working to recover wild salmon populations will in turn assist with the recovery of southern resident orca whales.

CON: This bill depends on land acquisition from private citizens to solve the problem of protecting salmon habitat. Counties are already required consider anadromous fisheries as they develop critical areas ordinances. Many of the requirements in the bill are already being done in cooperation with DFW and these changes are not needed. The bill establishes a timeline for adoption outside of comprehensive plan updates, which will increase costs for local governments and is an unfunded mandate. Critical areas ordinances are developed at the local level, but this bill upends that process by having a state agency develop guidelines and then requiring adoption of the guidelines.

OTHER: There is support for creating guidelines for counties and cities in order to improve how ordinances address salmon habitat. It would be helpful to adjust the timelines in the bill. Helping counties and cities focus on the highest priority areas for salmon will help salmon and assist jurisdiction in efficiently updating their critical areas ordinances.

Persons Testifying: PRO: Senator Jesse Salomon, Prime Sponsor; Jeff Friedman, Maya's Legacy Whale Watching; Erin Gless, Island Adventures Whale Watching; Shari Tarantino, Orca Conservancy.

CON: Ed Bowen; Paul Jewell, Washington State Association of Counties; Jan Himebaugh, Building Industry Association of Washington.

OTHER: Chris Conklin, Washington Department of Fish and Wildlife; Gerry O'Keefe, Washington Public Ports Association.

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