

# HOUSE BILL REPORT

## SB 5390

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**As Passed House:**

April 6, 2023

**Title:** An act relating to establishing a programmatic safe harbor agreement on forestlands.

**Brief Description:** Establishing a programmatic safe harbor agreement on forestlands.

**Sponsors:** Senators Shewmake, Warnick, Rolfes, Stanford, Nguyen and Wilson, C..

**Brief History:**

**Committee Activity:**

Agriculture and Natural Resources: 3/21/23, 3/22/23 [DP];

Appropriations: 3/31/23, 4/3/23 [DP].

**Floor Activity:**

Passed House: 4/6/23, 98-0.

**Brief Summary of 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.

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### HOUSE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

**Majority Report:** Do pass. Signed by 10 members: Representatives Chapman, Chair; Morgan, Vice Chair; Reeves, Vice Chair; Dent, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Kloba, Lekanoff, Orcutt, Schmick and Springer.

**Staff:** Robert Hatfield (786-7117).

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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 part of the legislation nor does it constitute a statement of legislative intent.*

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** Do pass. Signed by 29 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg, Chopp, Connors, Davis, Dye, Fitzgibbon, Hansen, Harris, Lekanoff, Pollet, Riccelli, Rude, Ryu, Sandlin, Schmick, Senn, Simmons, Slatter, Springer, Steele, Stonier and Tharinger.

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

### **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 restriction 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 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 the 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 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 (Agriculture and Natural Resources):**

(In support) This bill fixes a perverse incentive under the Endangered Species Act for a landowner to cut down their forest before the trees grow so large that they create habitat for an endangered species. A safe harbor agreement allows a landowner to grow great habitat, and if northern spotted owls come to that landowner's property, the property owner will not be penalized.

The bill provides benefits to both animals who need older forests, and to landowners. This bill represents one of the occasions where stakeholders on all sides came together to put together the policy.

(Opposed) None.

**Staff Summary of Public Testimony (Appropriations):**

(In support) None.

(Opposed) None.

**Persons Testifying (Agriculture and Natural Resources):** Senator Sharon Shewmake, prime sponsor; and Paula Swedeen.

**Persons Testifying (Appropriations):** None.

**Persons Signed In To Testify But Not Testifying (Agriculture and Natural Resources):** None.

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