

# HOUSE BILL REPORT

## SSB 5667

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**As Passed House:**

March 1, 2024

**Title:** An act relating to eligibility, enrollment, and compensation of small forestland owners volunteering for participation in the forestry riparian easement program.

**Brief Description:** Concerning eligibility, enrollment, and compensation of small forestland owners volunteering for participation in the forestry riparian easement program.

**Sponsors:** Senate Committee on Agriculture, Water, Natural Resources & Parks (originally sponsored by Senators Muzzall, Van De Wege, Short, Wagoner and Wellman).

**Brief History:**

**Committee Activity:**

Agriculture & Natural Resources: 2/20/24, 2/21/24 [DP];

Capital Budget: 2/23/24, 2/26/24 [DPA].

**Floor Activity:**

Passed House: 3/1/24, 96-0.

**Brief Summary of Substitute Bill**

- Reduces the duration of easements under the Forestry Riparian Easement Program (FREP) from 50 years to 40 years.
- Increases the amount the Small Forest Landowner Office must offer a small forest landowner from 50 percent to 70 percent of the value of qualifying timber in the FREP.
- Increases payments for qualifying timber on potentially unstable slopes or landforms from \$50,000 to \$100,000.

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**HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES**

**Majority Report:** Do pass. Signed by 8 members: Representatives Chapman, Chair;

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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.*

Reeves, Vice Chair; Dent, Ranking Minority Member; Kloba, Lekanoff, Orcutt, Schmick and Springer.

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

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## HOUSE COMMITTEE ON CAPITAL BUDGET

**Majority Report:** Do pass as amended. Signed by 26 members: Representatives Tharinger, Chair; Callan, Vice Chair; Hackney, Vice Chair; Abbarno, Ranking Minority Member; McClintock, Assistant Ranking Minority Member; Steele, Assistant Ranking Minority Member; Alvarado, Bateman, Christian, Eslick, Farivar, Fosse, Kloba, Kretz, Leavitt, Maycumber, Morgan, Mosbrucker, Orwall, Peterson, Reed, Rule, Sandlin, Shavers, Stearns and Waters.

**Staff:** John Wilson-Tepeli (786-7115).

### **Background:**

#### Forestry Riparian Easement Program.

The Forestry Riparian Easement Program (FREP) is managed by the Small Forest Landowner Office in the Department of Natural Resources (DNR), and acquires 50-year easements along riparian and other sensitive aquatic areas from small forest landowners who are willing to sell or donate easements to the state. The DNR may purchase easements from small forest landowners and hold the easements in the name of the state. Small forest landowners are generally landowners who harvest less than an average of 2 million board feet per year. The easements only allow landowners to engage in activities except as necessary to protect the riparian functions of the habitat for the term of the easement.

The easements represent 50 percent of the value of the unharvested trees, plus participation compliance costs. Once a contract under the FREP is executed, the DNR is required to reimburse the landowner for the actual costs to establish streamside buffers and timber marking.

The value of the easement is determined by the DNR based on the fair market value of the timber volume covered by the easement. This calculation is made by the DNR after it conducts a timber cruise of the entire proposed easement. The data gathered in the timber cruise are then applied to a stumpage value table to calculate the fair market value. Value is calculated only on qualifying timber. Compensation for qualifying timber on potentially unstable slopes or landforms may not exceed \$50,000.

### **Summary of Bill:**

Forestry riparian easements are effective for 40 years, rather than 50 years.

Subject to availability of funding, the amount of compensation the Small Forest Landowner Office (SFLO) must offer for qualifying timber in the Forestry Riparian Easement Program (FREP) is increased from 50 percent to 90 percent of the value. The SFLO may utilize landowners' actual mill receipts to help determine fair market value, but may not require these documents in any valuation process.

Compensation for qualifying timber on potentially unstable slopes or landforms may not exceed \$150,000, up from \$50,000 under current law.

At least semiannually, the Department of Natural Resources (DNR) must consult with the Small Forest Landowner Advisory Committee (Committee) to review landowner complaints, administrative processes, rule recommendations, and related issues where the DNR is actively seeking the Committee's advice on potential improved efficiencies and effectiveness.

The intent of the Legislature is stated that the SFLO complete FREP application transactions within two years of the application receipt.

The provision allowing for approved forest practices applications for which the regulatory impact is greater than the average percentage impact for all small forestland owners to receive up to 100 percent for that portion of the regulatory impact that is in excess of the average is repealed.

**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 & Natural Resources):**

(In support) Asking private landowners to leave land idle is an imposition on them; the Forestry Riparian Easement Program (FREP) allows them to receive some recompense for that.

In 1999, the Extinction Is Not an Option report from Governor Locke led to the Forest and Fish law, which in turn had a significant impact on small forestland landowners. In Southwest Washington, landowners faced higher than average losses as a result of Forest and Fish regulations. A landowner can only apply for compensation under the FREP once they do a harvest. Moving to a 40-year easement term helps to address the financial burdens placed on small forestland landowners. The bill helps small forestland landowners to continue to be stewards of their land. There are ecological cobenefits delivered by small forestland landowners. The criteria to be a small forestland landowner under the Forest and

Fish law is that they harvest less than 2 million board feet per year on average; that works out to owning about 2,500 acres in Western Washington and about 6,500 acres in Eastern Washington.

The state has been working for 23 years to follow through on the regulatory promises made to small forestland landowners from the Forest and Fish law. This bill will finally close the disproportionate impact on small forestland landowners caused by the Forest and Fish law. This bill will help reduce the threat of converting forested lands to non-forested uses, by making it more financially viable for these lands to remain in forestry uses.

(Opposed) None.

**Staff Summary of Public Testimony (Capital Budget):**

(In support) Department of Natural Resources (DNR) data shows that about \$3 million per biennium has been allocated for the Forestry Riparian Easement Program (FREP). This funding has allowed a payout of about 62 percent of the cruised timber and about \$30,000 per year in administrative funding for the DNR. Accounting for efficiencies realized through program changes in the bill, the additional cost for the program is likely to be about \$3.1 million per biennium. This is less than half of the funding that is targeted toward the FREP in the Climate Commitment Act. There has been an eight-year lag in funding for this program. Moving to a 40-year easement term helps to address the financial burdens placed on small forestland landowners and matches the timber harvest rotation cycle. In many cases, the Forest Practices Act restricts harvest on nearly 80 percent of small forest landowner properties due to riparian areas and other regulated characteristics of the landscape. Small forest landowners have been waiting for over 20 years for the state to keep promises that were made when regulations under the Forest and Fish Law were implemented. This legislation will close the mitigation gap and reduce the disproportionate impact of these regulations on small forest landowners. There has been near unanimous support for the bill so far.

(Opposed) None.

**Persons Testifying (Agriculture & Natural Resources):** Senator Ron Muzzall, prime sponsor; Elaine Oneil, Washington Farm Forestry Association; and Ken Miller.

**Persons Testifying (Capital Budget):** Elaine O'neil, Washington Farm Forestry Association; and Ken Miller, Miller Family Forest.

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

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