

HOUSE BILL REPORT

HB 2891

As Reported by House Committee On:

Local Government & Housing
Education Appropriations

Title: An act relating to providing a one-year extension for completion of recommendations under RCW 36.70A.5601 conducted by the William D. Ruckelshaus Center

Brief Description: Extending time to complete recommendations under RCW 36.70A.5601 conducted by the William D. Ruckelshaus Center.

Sponsors: Representatives Simpson, Blake, Chandler, Nelson, Kretz, White, Dunshee, Miloscia, Short, Upthegrove, Springer, Sullivan, Kenney and Ormsby.

Brief History:

Committee Activity:

Local Government & Housing: 1/25/10, 2/1/10 [DPS];
Education Appropriations: 2/4/10 [DPS(LGH)].

Brief Summary of Substitute Bill

- Extends a provision that temporarily prohibits counties and cities from amending or adopting critical areas ordinances (CAOs) as they specifically apply to agricultural activities by one year to July 1, 2011.
- Specifies that counties and cities that are subject to the temporary prohibition are required to review and, if necessary, revise their applicable CAOs by December 1, 2012.
- Grants the William D. Ruckelshaus Center, in completing its examination of the conflicts between agricultural activities and CAOs adopted under the Growth Management Act, one additional year to conclude certain examination tasks.

HOUSE COMMITTEE ON LOCAL GOVERNMENT & HOUSING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass.
Signed by 10 members: Representatives Simpson, Chair; Nelson, Vice Chair; Angel,

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

Ranking Minority Member; Fagan, Miloscia, Short, Springer, Upthegrove, White and Williams.

Staff: Ethan Moreno (786-7386).

Background:

Growth Management Act.

The Growth Management Act (GMA) is the comprehensive land use planning framework for county and city governments in Washington. Enacted in 1990 and 1991, the GMA establishes numerous requirements for local governments obligated by mandate or choice to fully plan under the GMA (planning jurisdictions) and a reduced number of directives for all other counties and cities.

The GMA directs planning jurisdictions to adopt internally consistent comprehensive land use plans that are generalized, coordinated land use policy statements of the governing body. Comprehensive plans must address specified planning elements, each of which is a subset of a comprehensive plan. The implementation of comprehensive plans occurs through locally adopted development regulations.

All jurisdictions are required by the GMA to satisfy specific designation mandates for natural resource lands and critical areas. All local governments, for example, must designate, where appropriate, agricultural lands that are not characterized by urban growth that have long-term significance for the commercial production of food or other agricultural products. Planning jurisdictions have further requirements under the GMA and must also adopt development regulations that conserve designated agricultural lands.

In addition to designation requirements, all local governments must also protect critical areas. These protection requirements obligate local governments to adopt development regulations, also known as critical areas ordinances (CAOs), meeting specified criteria. As defined by statute, critical areas include wetlands, aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas.

The William D. Ruckelshaus Center.

The William D. Ruckelshaus Center (Ruckelshaus Center or Center) is a joint effort of the University of Washington and Washington State University that is dedicated to helping public, tribal, private, non-profit, and other community leaders build consensus and resolve conflicts around difficult public policy issues. The Center provides neutral expertise to improve the quality and availability of voluntary collaborative approaches for policy development and multi-party dispute resolution.

Recent Legislative Action, Substitute Senate Bill 5248 (2007).

Legislation adopted in 2007 (*i.e.*, Substitute Senate Bill 5248 [SSB 5248], enacted as ch. 253, Laws of 2007) temporarily prohibited counties and cities from taking certain actions pertaining to CAOs. As specified in SSB 5248, between May 1, 2007, and July 1, 2010, counties and cities are prohibited from amending or adopting CAOs as they specifically apply to agricultural activities, a term defined in the legislation. Counties and cities subject to the temporary prohibition are required to review and, if necessary, revise their CAOs as

they specifically apply to agricultural activities to comply with requirements of the GMA by December 1, 2011.

The 2007 legislation also charged the Ruckelshaus Center with conducting a two-phased examination of the conflicts between agricultural activities and CAOs adopted under the GMA. The examination, which was directed to begin by July 1, 2007, was to be completed in two distinct phases. In the first phase, the Center was directed to conduct fact-finding and stakeholder discussions related to stakeholder concerns, desired outcomes, opportunities, and barriers. In the second phase of the examination, the Center was directed to:

- facilitate stakeholder discussions to identify policy and financial options or opportunities to address the issues and desired outcomes identified in the first phase; and
- seek to achieve agreement among participating stakeholders and to develop a coalition to support changes or new approaches to protecting critical areas during the 2010 legislative session.

Various reporting requirements were established for the Center in SSB 5248 and a final report of findings and legislative recommendations was to be issued by the Center to the Governor and the appropriate committees of the House of Representatives and Senate by September 1, 2009.

Center efforts associated with the examination are ongoing and a final report has not been issued.

Summary of Substitute Bill:

A provision that temporarily prohibited counties and cities from taking certain actions pertaining to CAOs is extended one year. Between May 1, 2007, and July 1, 2011, counties and cities may not amend or adopt CAOs as they specifically apply to agricultural activities. Counties and cities that are subject to the temporary prohibition are required to review and, if necessary, revise their CAOs as they specifically apply to agricultural activities to comply with requirements of the GMA by December 1, 2012.

The Ruckelshaus Center, in completing its examination of the conflicts between agricultural activities and CAOs adopted under the GMA, is given one additional year to conclude certain examination tasks. The Center must seek to achieve agreement among participating stakeholders and to develop a coalition to support changes or new approaches to protecting critical areas during the 2011 legislative session. Additionally, the Center is required to issue a final report of findings and legislative recommendations to the appropriate committees of the House of Representatives and the Senate by September 1, 2010.

Substitute Bill Compared to Original Bill:

The substitute bill deletes a provision that would nullify certain requirements of the Ruckelshaus Center if funding for those requirements is not provided in the omnibus

appropriations act by June 30, 2010. The substitute bill also makes a technical correction to the underlying bill.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Additional time is needed to allow the examination efforts of the Ruckelshaus Center, and associated processes, to continue. This examination process, which began with skepticism, has been productive. A considerable amount of time and money has been invested in the examination process, but the costs will be much higher if a solution isn't found. Additional time is being requested because of the opportunity for a solution that now exists. The agricultural community is committed to the Ruckelshaus process and its goal of satisfying environmental concerns and preserving agricultural viability. Absent the extension provisions of this bill, all jurisdictions will have to update their CAOs, as they relate to agricultural activities, simultaneously. This will have the potential to create an enormous burden on the newly configured Growth Management Hearings Board. With regard to water quality concerns, the Department of Ecology currently has the ability to enforce water quality requirements.

(Neutral) For over two years, stakeholders have been working on approaches to resolving the tension between environmental protection and preserving agriculture. Reports of these efforts have been provided to the Legislature. This bill was introduced by agricultural and environmental interests and is intended to extend negotiation and regulatory timelines for the purpose of achieving agreement among parties.

Counties have been engaged and active partners in the Ruckelshaus process for two years. Although a majority of the county participants in the Ruckelshaus process support its continuation, support for continuing county involvement in the process has not yet been authorized by the Washington State Association of Counties. (The Washington State Association of Counties' Legislative Steering Committee subsequently agreed to support HB 2891.)

(Opposed) The tribes have given a great deal of consideration as to whether to continue in the Ruckelshaus process. They are looking for incentives and a regulatory backstop that is adequate to meet the needs for salmon habitat. The tribes do not have assurances of the creation of a sufficient backstop, so they have chosen to discontinue participating in Ruckelshaus process and to continue the conversation in other forums.

Persons Testifying: (In support) Representative Simpson, prime sponsor; Jack Field, Washington Cattlemen's Association; April Putney, Futurewise; and Dan Wood, Washington Farm Bureau.

(Neutral) Bill Ruckelshaus, The William D. Ruckelshaus Center; and Eric Johnson, The Washington State Association of Counties.

(Opposed) Jim Webber, Northwest Indian Fisheries Commission.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON EDUCATION APPROPRIATIONS

Majority Report: The substitute bill by Committee on Local Government & Housing be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Haigh, Chair; Probst, Vice Chair; Hope, Assistant Ranking Minority Member; Anderson, Carlyle, Haler, Hunter, Kagi, Maxwell, Nealey, Quall and Wallace.

Minority Report: Without recommendation. Signed by 2 members: Representatives Priest, Ranking Minority Member; Rolfes.

Staff: Serah Stetson (786-7109).

Summary of Recommendation of Committee On Education Appropriations Compared to Recommendation of Committee On Local Government & Housing:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) In 2007 after many years of court cases and initiative battles, the Legislature decided to task the William D. Ruckelshaus Center (Center) with exploring the difficult policy issues around critical areas and agricultural activities. So far, stakeholders have come very close to agreement, but other issues have come up. This work is looking for voluntary incentives that will bring environmental benefits. Agriculture is one of the largest sectors of the state economy. In many cases agricultural activity is the only thing protecting the environment from more intense development. Under the Growth Management Act (GMA), critical area updates were put on hold while trying to negotiate agreement. Tribal interests don't believe that it's productive and may not continue if talks extend. If this bill doesn't pass, every city and county will have to review and if necessary update their critical area ordinances by December of 2011, which will place a large burden on the already downsized

Growth Management Hearings Boards. It is fiscally prudent to extend the timeline and modify the law, rather than to trigger simultaneous updates. There is a real possibility of reaching agreement if this work is continued.

(Neutral) The Center is ready to complete work as outlined in the bill.

(Opposed) None.

Persons Testifying: (In support) Dan Wood, Washington Farm Bureau.

(Neutral) Rob McDaniel, William D. Ruckleshaus Center.

Persons Signed In To Testify But Not Testifying: None.