

HOUSE BILL REPORT

SSB 6520

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: Senate Committee on Agriculture & Rural Economic Development (originally sponsored by Senators Hatfield, Parlette, Hobbs, Ranker, Pridemore and Shin).

Brief History:

Committee Activity:

Local Government & Housing: 2/22/10 [DPA];
Education Appropriations: 2/25/10 [DPA(LGH)].

Brief Summary of Substitute Bill (As Amended by House)

- 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

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.

Majority Report: Do pass as amended. Signed by 11 members: Representatives Simpson, Chair; Nelson, Vice Chair; Angel, Ranking Minority Member; DeBolt, Assistant 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.

Legislation adopted in 2007 (*i.e.*, Substitute Senate Bill (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 Amended 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 must 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.

Amended Bill Compared to Substitute Bill:

The amended act deletes provisions that would nullify examination requirements of the Ruckelshaus Center if specific funding for the requirements is not appropriated through legislative action.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended 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) Maintaining a viable agricultural economy is essential to sustainability and the quality of life in Washington's communities. However, in seeking to preserve an agricultural economy, it is not appropriate to ignore the importance of farming practices on salmon habitat or to minimize the needs of tribes. The negotiations have not yet been successful, but there is an opportunity for success and the negotiations should continue for another year. Counties have been engaged in the Ruckelshaus process for two and a half years and they recognize that the consequences of not finding success will enable the existing practices of litigation and conflict to continue.

A regulatory backstop was proposed by negotiators from the agricultural caucus, but the details of the backstop were never agreed upon by negotiators. The agricultural community is committed to the Ruckelshaus process, and it recognizes that all of the negotiating caucuses have made compromises and have moved toward agreement. The process is complex and difficult, but concepts have been agreed to and one more year of negotiations is worth the risk that an agreement might be reached. If the bill is not passed, a moratorium will end and all counties will have to review their CAOs as they apply to agricultural activities. The Growth Management Hearings Board, which is proposed for consolidation this year, will not be able respond to the resulting caseload increase.

(Neutral) The Ruckelshaus Center has provided updated progress information about its efforts and is ready to provide assistance if the Legislature chooses to continue the examination process.

(Opposed) The tribes are committed to reaching a negotiated solution, but negotiations require commonly shared values among participating parties. What happens when voluntary regulatory measures are ineffective? The tribes believe that a regulatory backstop that is sufficient to meet the habitat needs of salmon is necessary. The tribes have reluctantly decided that Ruckelshaus process is not likely to yield the desired regulatory backstop.

Persons Testifying: (In support) April Putney, Futurewise, Washington Environmental Council, and the Nature Conservancy; Erik Johnson, Washington State Association of Counties; and Dan Wood, Farm Bureau.

(Neutral) Rob McDaniel, Ruckelshaus Center.

(Opposed) Jim Weber, Northwest Indian Fisheries Commission.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON EDUCATION APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Local Government & Housing. Signed by 10 members: Representatives Haigh, Chair; Probst, Vice Chair; Priest, Ranking Minority Member; Hope, Assistant Ranking Minority Member; Hunter, Kagi, Maxwell, Nealey, Quall and Wallace.

Minority Report: Without recommendation. Signed by 4 members: Representatives Anderson, Carlyle, Haler and 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 Amended 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) The center is poised to meet their obligations under the bill. The goal is the protection of the entire ecosystem relating to critical areas. This process has not been fruitful so far, but hopefully an additional year will give enough time for the Ruckelshaus Center to complete the study. The agricultural community is committed to the negotiations and one more year allows for an opportunity to reach agreement. It is a difficult issue with disparate interests that are committed to finding agreement.

There is a fiscal impact of not passing the bill. Within a year and a half, every county and city in the state will have to revise and potentially update their Critical Area Ordinance's with respect to agricultural areas. This would be the first time in the 20-year history of the Growth Management Act that everyone would be doing something with their plans at the same time. When there are revisions, there are appeals. Meanwhile, the Growth

Management Hearings Board is being downsized and if the bill doesn't pass their work would triple.

(Opposed) None.

Persons Testifying: April Putney, Futurewise; and Dan Wood, Washington Farm Bureau.

Persons Signed In To Testify But Not Testifying: None.