

HOUSE BILL REPORT

SSB 6747

As Reported by House Committee On:
General Government Appropriations

Title: An act relating to cost recovery for the natural heritage program.

Brief Description: Authorizing the department of natural resources to recover costs for data delivery services provided under the natural heritage program.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Jacobsen, Fraser, Ranker, Shin and Kline; by request of Commissioner of Public Lands).

Brief History:

Committee Activity:

General Government Appropriations: 2/23/10, 2/25/10 [DPA].

**Brief Summary of Substitute Bill
(As Amended by House)**

- Requires the Department of Natural Resources to charge fees for the recovery of service costs related to the Washington Natural Heritage Program.

HOUSE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS

Majority Report: Do pass as amended. Signed by 9 members: Representatives Darneille, Chair; Takko, Vice Chair; Hudgins, Kenney, Klippert, Pedersen, Sells, Van De Wege and Williams.

Minority Report: Do not pass. Signed by 5 members: Representatives McCune, Ranking Minority Member; Armstrong, Assistant Ranking Minority Member; Blake, Dunshee and Short.

Staff: Owen Rowe (786-7391).

Background:

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.

In 1981 the Legislature amended the Natural Area Preserves Act and established the Washington Natural Heritage Program (WNHP) within the Department of Natural Resources (DNR).

The WNHP manages site-specific and species/ecosystem-specific information on priority species and ecosystems; those that are rare or have very limited distribution.

The WNHP's mandate is to:

- identify which species and ecosystems are priorities for conservation effort;
- build and maintain a database for priority species and ecosystems; and
- share the information with others so that it can be used for environmental assessments and conservation planning purposes.

The data is used by a number of agencies, organizations, companies, and individuals for conservation planning, environmental review processes, and other information requests.

Summary of Amended Bill:

The striking amendment creates an annual subscription fee of \$1,000 for access to statewide data which includes up to five separate requests including, but not limited to: data analysis, technical assistance, manual searches, map interpretations, and preparing special reports. Requests for information in addition to the five included in the statewide annual subscription will be charged an hourly fee of \$75 rounded to the nearest half-hour.

A \$100 annual fee for data covering a full county or any portion of a county is created; additionally, an hourly rate of \$75 rounded to the nearest half-hour applies to this subscription type.

Fees charged to an applicant requesting information services on private land owned by the applicant may not exceed \$300 per calendar year.

The DNR will not be limited from entering into contracts, agreements, or other arrangements with public and private agencies or organizations. The DNR may waive user charges for students requesting data for educational purposes.

Amended Bill Compared to Substitute Bill:

The substitute bill directed the WNHP to charge a \$6,000 annual subscription fee or a \$100 access fee per request, plus a charge of \$75 per hour to process and respond to a data request.

The committee striking amendment changes this fee structure. It creates an annual subscription fee of \$1,000 for access to statewide data which includes up to five separate requests including, but not limited to: data analysis, technical assistance, manual searches, map interpretations, and preparing special reports. Requests for information in addition to

the five included in the statewide annual subscription will be charged an hourly fee of \$75 rounded to the nearest half-hour.

The committee striking amendment adds provisions that fees charged to an applicant requesting information services on private land owned by the applicant may not exceed \$300 per calendar year, and that the DNR may waive user charges for students requesting data for educational purposes. Additionally, language is added in the striking amendment that the DNR will not be limited from entering into contracts, agreements, or other arrangements with public and private agencies or organizations.

The language in the substitute bill that allows the DNR to provide one annual subscription to any statewide trade association whose membership is comprised of private forest landowners to serve as the annual subscription for any of that association's members is removed in the striking amendment.

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) This bill is agency request legislation, please pass this bill. Without support of this bill and continued State General Fund support of the program the DNR will lose federal matching dollars. The bill is designed to charge a fee for a service that the state provides. Services like this are not covered under the state's Public Records Act. This program is one of the items on the Environmental Coalition's list for protection. The Governor's proposal also assumed that DNR would charge fees to support this program. The current fee in this bill may be too high, with a reduced fee you may get more users. Stakeholder work will be conducted on a fee structure that would adequately support this program. This program provides a large public benefit.

(Opposed) This is a complex issue. This will be the first place where records requests will be charged market rates for the value of government data. If smaller newspapers are required to pay market rates, they may not be able to afford this information. Large newspapers may elect to request the state's geographic systems data and manipulate geographic layers with their own software. The state's citizens have paid for this program for 30 years through general taxes. This bill is wrong-headed and contravenes a number of laws. This is not the way for the state to recover savings. The language that allows the DNR to charge one subscription to a statewide trade association is unconstitutional as it grants special privileges to a private association. The federal Endangered Species Act requires citizen enforcement. There is concern that citizens will be hindered from making a determination on a taking of an endangered species. These fees are not appropriate for ordinary citizens who

are the ultimate consumers of government services. Citizens should not be charged for access to this information.

(Available for questions) None.

Persons Testifying: (In support) Heath Packard, Department of Natural Resources; Bill Robinson, The Nature Conservancy; and John Ehrenreich, Washington Forest Protection Association.

(Opposed) Daniel Fallstrom, Washington State Snowmobile Association; Rowland Thompson, Allied Daily Newspapers; and Arthur West.

(Available for questions) Penny Speaks, Department of Natural Resources.

Persons Signed In To Testify But Not Testifying: None.