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**Agriculture & Natural Resources  
Committee**

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**HB 1009**

**Brief Description:** Concerning the authority of certain state agencies to enter into agreements with the federal government under the endangered species act.

**Sponsors:** Representatives Chandler, Blake, Takko, Kretz, Taylor, Orcutt, McCune and Pearson.

**Brief Summary of Bill**

- Requires certain state agencies to refrain from entering into any habitat conservation plans or other final agreements with the federal government under the Endangered Species Act absent express authorization from the Legislature.

**Hearing Date:** 1/12/11

**Staff:** Jason Callahan (786-7117).

**Background:**

A habitat conservation plan (HCP) is a tool available to regulated parties under the federal Endangered Species Act (ESA). An HCP is a voluntary, long-term planning agreement between the federal government and a state, locality, private landowner, or other non-federal party that sets conditions under which certain actions are permitted to occur even though the actions may result in harm to an endangered species. An HCP commonly describes the effects the proposed actions will have on an endangered species, how those impacts will be minimized or mitigated, and how the mitigation will be funded. In addition, an HCP must provide elements which ensure any harm caused will be incidental and that the harm will not appreciably reduce the likelihood of the survival or recovery of the affected species.

In return for agreeing to the provisions of an HCP, the non-federal party is eligible to receive an incidental take permit. This permit allows the non-federal party to proceed with the actions identified in the HCP with certainty that they will not be found in violation of the ESA. The

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incidental take permit makes the elements of the HCP binding. A violation of the incidental take permit may result in a violation of the ESA.

**Summary of Bill:**

The Department of Fish and Wildlife, the Department of Ecology, the Parks and Recreation Commission, and the Department of Natural Resources are each prohibited from officially entering into an HCP or other multi-year agreement with the Federal government under the ESA without first receiving express direction from the Legislature to do so. Authorizing direction from the Legislature must take the form of an enacted bill that directs an agency to enter into a specific HCP or to enter into an HCP for a specific departmental landholding or function.

The affected agencies are limited from officially committing the state to a long-term agreement. The agencies may still seek funding for the development of an HCP, negotiate provisions of an HCP with the Federal government, or take other steps towards the development of an HCP.

The prohibition on finalization on an HCP absent legislative direction applies only to future HCPs. Any existing HCPs between one of the affected agencies and the federal government are to remain in effect.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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