

HOUSE BILL ANALYSIS

HB 1281

Title: An act relating to providing incentives for nonindustrial private forest landowners with landscape planning, technical assistance, carbon storage markets, and rural design assistance.

Brief Description: Creating the family forestry support act.

Sponsors: Representatives Regala, Anderson, Doumit, Haigh, Rockefeller, Eickmeyer, Hatfield, O'Brien, Kessler, Kenney and Lantz; by request of Commissioner of Public Lands.

HOUSE COMMITTEE ON NATURAL RESOURCES

Meeting Date: February 3, 1999

Bill Analysis Prepared by: Josh Weiss, Counsel (786-7129); Carole Richmond, Analyst (786-7114)

Background:

I. Landscape Management Plans: The Forest Practices Act calls for the protection of forest soils, fisheries, water quantity and quality, air quality, recreation, and scenic beauty coincident with the maintenance of a viable forest products industry. The act defines public resources— as water, fish and wildlife, and in addition [...] capital improvements of the state or its subdivisions.— (RCW 76.09.020(13)). Four classes of forest practice permits are established, with class I permits having the least potential for damage to public resources, and class IV permits having the most potential for damage to public resources, in that the forest land is intended to be converted to another use, or the forest practice may have a substantial impact on the environment and, therefore, requires environmental review under the State Environmental Policy Act (SEPA). Applications for forest practice permits are made to the Department of Natural Resources (DNR), which reviews them for compliance with the Forest Practices Act, and which may impose conditions on the permits. A permit is normally issued for two years.

The concept behind landscape management plans is to allow a long-term plan to substitute for the requirement to obtain permits for separate forest practices and to undergo possible environmental review. The concept has evolved to mean wildlife habitat planning on private forest lands.

Current law (RCW 76.09.350) authorizes DNR to establish seven pilot projects intended to result in the development of plans that will: (1) provide better protection of public resources than current laws; (2) not result in poorer conditions for species listed as threatened or endangered under the federal endangered species act, or for candidate species; and (3) measurably improve habitat for species selected for special consideration under the plan. Prior to approval, plans are subject to a public review process. A comparison of RCW 76.09.350 and House Bill 1281 is attached.

II. Stewardship Technical Assistance: The DNR currently provides technical assistance to nonindustrial forestland owners, but funding is provided from federal sources.

III. Carbon Storage: While scientific debate does exist, it is widely thought that global atmospheric carbon levels have risen in recent years. Some scientists argue that this increase in carbon has been caused by the burning of fossil fuels which emit carbon dioxide, and by changing land-use patterns which eliminate naturally occurring carbon sinks— such as forests.

Living forests absorb carbon dioxide from the atmosphere, storing carbon in the wood mass of the trees themselves, and facilitating the storage of carbon in forest soils. It is thought that forests can mitigate recent increases in atmospheric carbon levels.

A carbon emission trading program would provide a financial incentive for landowners to maintain long-term forest production. Such a program would allow landowners to sell credits on a free market to persons who emit carbon. This could only be accomplished through a state standardized and certified program.

Several other states, including Oregon, Montana, California, Hawaii, Georgia, Maine, Minnesota, and Ohio, are exploring the implementation of carbon sequestration programs. Some countries, such as Germany, have very active carbon markets.

IV. Rural Design Demonstration: Between 1970 and 1997, 2,300,000 acres of land were converted from forest land to other uses, mostly for urban expansion. Many strategies at controlling this conversion have been used, including density controls, critical area protections, development regulations, and development clustering. Rarely are these strategies used in conjunction.

V. Conservation Easements: During the 1980s, 322,000 acres of Western Washington's forest lands were converted to other uses. Much of this conversion occurred in riparian zones, thereby effecting salmon habitat.

Conservation easements have been utilized for many years to provide an incentive for landowners to maintain agricultural, forest, or general open space on private lands. This method occurs when a third party purchases the development rights to the property, and a

contractual agreement that the land will not be developed is agreed upon. The land is then taxed at a lower assessment, resulting in a tax break for the landowner.

Currently, counties, cities, towns, metropolitan park districts, metropolitan municipal corporations, nonprofit historic preservation corporations and nonprofit nature conservancy corporations are allowed to acquire conservation easements, including any other contractual right necessary to conserve open space, farmland, and timberland. Such land may be conveyed back to the original owner under covenants limiting the future use of the property. These same entities may acquire land which is taxed at current use assessment, and are allowed to forbid or restrict building on any land upon which they have acquired a conservation easement. Such land may be alienated by the owner of the property, subject to the terms of the agreement made with the entity.

Summary of Bill:

I. Landscape Management Plans: The Legislature recognizes that with current economic factors, many nonindustrial private forest landowners will need incentives to help them remain in forestry. Such incentives are identified as including long-term landscape planning and associated permits.

Terms are defined: a landowner landscape plan– means an individual landowner plan prepared according to the act’s requirements and approved by the department; a landscape level permit– means a single forest practices permit issued upon approval of a landowner landscape plan for a term not to exceed 25 years; and a nonindustrial private forest landowner– means an owner of 15,000 acres or fewer of forest land who does not own or operate a forest products manufacturing facility.

The department, in consultation with the departments of Ecology and Fish and Wildlife, is authorized to select up to 20 nonindustrial landowners for the purpose of a pilot project to develop individual landscape management plans. Participation in the pilot projects is voluntary.

The department is directed to approve a landscape management plan when it contains all of the required provisions, provides better protection than current state law for the ecological functions expected to be provided by the landscape, does not result in poorer habitat conditions over the life of the plan for any species listed as threatened or endangered under the federal endangered species act, and would measurably improve habitat conditions for the majority of species expected to be found in the planning area.

The elements of a landscape management plan include:

- a termination date not to exceed 25 years;
- short- and long-term management objectives for the property;
- assessment of current habitat conditions;
- management strategies for the following resources:

- « forest health
- « timber and wood production
- « soils
- « water quality, riparian and wetland areas
- « fish and wildlife habitat
- « threatened and endangered species
- « aesthetics and recreation, and
- « road maintenance and abandonment

The plan must also include maps identifying natural resource features, and must include reporting requirements.

Pilot plans approved by the department allow the issuance of a single forest practices permit valid for the term of the plan which, in this case, is not to exceed 25 years. An approved plan also exempts a landowner from the requirement to obtain permits for specific forest practices identified in the plan, and from the need for a hydraulic project approval under RCW 75.20.100. Pilot plans are subject to environmental review under SEPA.

After a landscape management plan has been approved, the landowner is required to meet with the department and with the departments of Fish and Wildlife and of Ecology to review specific forest practices planned for the next 12 months for compliance with the plan. The landowner is also required to provide written notice ten days before the conduct of any forest practices authorized in the plan.

The agreement implementing the plan is an agreement that runs with the property and is to be recorded with the real property records maintained by the county in which the affected properties are located. The plans may be terminated or modified only under conditions that are identified in the plan, but those conditions may not measurably impair the achievement of the plan's stated public resource purpose objectives.

The department is required to provide the Forest Practices Board with an evaluation of the pilot projects created under this act no later than December 31, 2002, and every two years thereafter. The department is also required to recommend whether a permanent landscape planning process should be established.

II. Stewardship Technical Assistance: Funding is appropriated to provide expanded technical assistance to nonindustrial forest landowners. Such assistance will include: the development of stewardship plans, planting of trees and shrubs, forest stand improvement, riparian and wetland establishment or enhancement, and control of sedimentation.

III. Carbon Storage: The DNR is required to prepare a report to the Legislature regarding the feasibility of establishing a statewide carbon storage trading market. The

report must evaluate feasible methods and credible technologies for developing and implementing such a market. In addition, the report must evaluate which state agencies can best facilitate a market including registration, verification, monitoring, and technical assistance.

IV. Rural Design Demonstration: The DNR and Department of Community, Trade and Economic Development are required to develop and implement a rural design demonstration which is applicable to nonindustrial forestlands. The demonstration must include drafting design principles, compatibility with existing county plans, and rural design standards. Nonindustrial forestlands that are zoned residential must be included in the demonstration. The demonstration must develop less than 40 percent of the site, maximize salmon habitat protection, and protect for perpetuity forest practices on a majority of the site.

V. Conservation Easements: The DNR may acquire conservation easements in riparian areas from nonindustrial forest landowners. Such easements are for the purpose of preserving forested conditions along riparian areas to provide habitat for fish and other wildlife.

State agencies are allowed to acquire conservation easements, including any other contractual right necessary to conserve open space, farmland, and timberland. Such land may be conveyed back to the original owner under covenants limiting the future use of the property. State agencies may acquire land which is taxed at current use assessment. Agencies are allowed to forbid or restrict building on any land upon which it has acquired a conservation easement. Such land may be alienated by the owner of the property, subject to the terms of the agreement made with the state agency.

Appropriation:

- I. Landscape Management Plans - None.
- II. Stewardship Technical Assistance - \$943,500 per biennium.
- III. Carbon Storage - \$50,000 per biennium.
- IV. Rural Design Demonstration - \$300,000 per biennium.
- V. Conservation Easements - \$1,500,000 per biennium.

Fiscal Note: Requested on January 20, 1999.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Rulemaking Authority: The Department of Natural Resources.

Attachment: Comparison of Landscape Management Pilot Programs