

HOUSE BILL REPORT

SHB 2502

As Passed Legislature

Title: An act relating to the forest products commission.

Brief Description: Concerning the establishment of the forest products commission.

Sponsors: By House Committee on Natural Resources (originally sponsored by Representatives Sump, Doumit, Rockefeller, Pearson, Jackley and Chase).

Brief History:

Committee Activity:

Natural Resources: 1/29/02 [DPS].

Floor Activity:

Passed House: 2/12/02, 97-0.

Passed Senate: 3/6/02, 49-0.

Passed Legislature.

Brief Summary of Substitute Bill

- Clarifies that any advertising, marketing, or public education by a forest products commission constitutes government speech and is therefore entitled to protection under the First Amendment.
- Clarifies when the director of the Department of Agriculture must call an election regarding the establishment of a forest products commission.
- Reimburses the Department of Agriculture for costs incurred to initiate the creation of a forest products commission.

HOUSE COMMITTEE ON NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Doumit, Chair; Rockefeller, Vice Chair; Sump, Ranking Minority Member; Buck, Eickmeyer, Ericksen, Jackley, McDermott, Orcutt, Pearson and Upthegrove.

Staff: Bill Lynch (786-7092).

Background:

The Legislature authorized the creation of a forest products commission during the 2001 legislative session. The forest products commission would operate similarly to the other commodity commissions in the state. It is responsible for the promotion of forest products, conducting research related to managed forests, and promoting managed forests. The commission would be funded by assessments paid by its members.

During the 2001 interim, the United States Supreme Court issued its decision of U.S. Department of Agriculture v. United Foods. The court found that a federal law requiring mushroom growers to pay for the establishment of a mushroom council to promote mushrooms was a violation of the First Amendment right to free speech under the United States Constitution. The court did not address in its decision, however, whether promotion by such a commission constituted government speech that is entitled to First Amendment protection.

The statutory provisions regarding when the director of the Department of Agriculture must call an election regarding the establishment of a forest products commission has caused some confusion.

Summary of Substitute Bill:

Legislative intent is clarified to indicate that any advertising, marketing, or public education by the forest products commission constitutes government speech and is therefore entitled to protection under the First Amendment. Additional language is added to the legislative intent section to reflect the importance of research related to forest products and managed forests to the citizens of the state.

Language is added to clarify when the director of the Department of Agriculture must call an election regarding the establishment of a forest products commission.

The association of producers of forest products interested in forming a forest products commission must reimburse the Department of Agriculture for its costs for convening the producers to nominate commission members and for conducting the election. If the commission is approved, it must reimburse the association for the costs paid to the department.

Appropriation: None.

Fiscal Note: Not Requested.

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

Testimony For: This will help address some issues that were raised by a recent U.S.

Supreme Court case. The bill and the proposed amendment by the Department of Agriculture are both supported by the industry.

Testimony Against: None.

Testified: Representative Sump, prime sponsor; and Bill Garvin, Washington Forest Protection Association.