

HOUSE BILL REPORT

HB 1192

As Reported by House Committee On:
Agriculture & Natural Resources

Title: An act relating to helping to ensure the viability of small forest landowners.

Brief Description: Ensuring the viability of small forest landowners.

Sponsors: Representative Blake.

Brief History:

Committee Activity:

Agriculture & Natural Resources: 2/11/11, 2/16/11 [DPS].

Brief Summary of Substitute Bill

- Directs the Forest Practices Board to explore alternative, low impact harvest restrictions for small forest landowners.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Blake, Chair; Stanford, Vice Chair; Chandler, Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys, Dunshee, Kretz, Lytton, Orcutt, Pettigrew, Rolfes and Van De Wege.

Minority Report: Without recommendation. Signed by 1 member: Representative Hinkle.

Staff: Jason Callahan (786-7117).

Background:

History of the Forests and Fish Law.

The Forest and Fish Report was presented to the Forest Practices Board and the Governor's Salmon Recovery Office on February 22, 1999. The report contained the recommendations for the development and implementation of rules, statutes, and programs designed to improve and protect riparian habitat on non-federal forest lands in Washington. The report was

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authored by various stakeholders, including the federal government, state government, and various interest and constituency groups. The rules proposed in the report were designed to provide compliance with the federal Endangered Species Act, restore and maintain minimum riparian habitat to support a harvestable supply of fish, meet Clean Water Act standards, and keep the timber industry economically viable.

The Legislature recognized the Forest and Fish Report in 1999 by passing the Forests and Fish Law. The law directed the Forest Practices Board (Board) to adopt emergency rules implementing the recommendations of the Forest and Fish Report. In the years since, the resulting Forest Practices Rules have been adopted and assurances from the federal government have been obtained. The assurances provide some certainty that forestry operations conducted in compliance with the rules will be protected from liability under the Endangered Species Act.

Exemptions to Riparian Buffers.

Although the state's Forest Practice Rules generally have specific restrictions on the amount of harvest allowed near streams and creeks, there is an exemption available from these restrictions for certain landowners. Parcels that are 20 contiguous acres or less are exempt from the modern riparian buffers rule, as long as the owner of the parcel does not own a cumulative total of more than 80 acres. Instead, these landowners can either follow the Forest Practices Rules in place prior to 1999, or work with the Department of Natural Resources (DNR) to establish an alternative management plan for the riparian portion of the harvest area. Landowners who qualify for the riparian buffer exception to the Forest Practices Rules may still be required to leave trees unharvested if they are located adjacent to a stream and do not exceed 15 percent of the volume of a stand of well-managed 50-year timber.

Alternate Plans.

As part of the Forest and Fish Law, the Legislature directed the Board to condition the adopted rules in such a manner that allows forest practices applicants to propose harvest plans as an alternative to the default rules. These alternative plans are to be developed in response to site-specific physical features and must provide protection to public resources that is equal to the standard harvest rules adopted by the Board. The Board is directed to consult with the DNR's Small Forest Landowner's Office in developing alternate harvest restrictions for small forest landowners. The alternative plan process is only available to landowners that own less than 80 acres and for harvesters affecting less than 20 acres.

Summary of Substitute Bill:

The Board is directed to utilize a program currently under its jurisdiction that focuses on adaptive management in forest practices to explore alternative, low impact harvest restrictions for small forest landowners. The exploration must include the consideration of methods that may provide small forest landowners with access to efficient, lower cost alternative plans and alternative restrictions for smaller harvest areas. The Board must assist

this process by furnishing professional facilitation of the process and providing a means for participation by small forest landowners.

A written report of the recommendations coming from the process must be delivered no later than September 1, 2012.

Substitute Bill Compared to Original Bill:

The original bill changed the nature of both the alternative plans process and riparian buffer harvest exemption in the Forest Practices Rules to be based on the amount of timber harvested and not the size of the harvested parcel or total ownership. The original bill also directed the Board to amend certain Forest Practice Rules.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute 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) In general, small forest landowners have a slight impact on the environment. However, the Forests and Fish Law has had a disproportionate impact on small forest landowners. Many promises were made to small forest landowners to help them deal with the disproportionate impact; however, most of them have been broken or diminished. The small forest landowners of the state want to stay in forestry and want to generate revenue to pay taxes, but the current system discourages these goals. Changes can bring back jobs and increase state tax revenue.

The current process for amending Forest Practices Rules is designed so there is a permanent stalemate that punishes agency staff for using their best professional judgment and fuels turf battles. The process does not recognize science that shows smaller buffers for small streams work well both for fish and small forest landowners. Overly large buffers result in a decrease in carbon sequestration, less wood available to be processed in local mills, a decrease in tax revenue, and increased state expense for the Forest Riparian Easement Program. The current habitat conservation plan for forest practices can be amended without jeopardizing the state's federal assurances. Small forest landowners have made a multigenerational commitment to their land and report a deep affection for the trees they raise.

(With concerns) Instead of adopting a bill that could jeopardize the Forest and Fish Law's federal assurances, the Legislature should direct the Board to fast track discussions over issues that are important to small forest landowners. There is a past history showing that this approach works. If this process can show scientific support for changes, then the habitat conservation plan will not need to be renegotiated.

(Opposed) Changes to the Forest Practices Rules could jeopardize the state's federal assurances under the Forests and Fish Law and the Clean Water Act since the current agreement does not envision a larger harvest exemption for small forest landowners, the increase in acres that would be harvested, or the decrease in harvest restrictions. The rules that existed before the Forest and Fish Law were insufficient to protect public resources, so expanding those rules would cause further risk. Changes would increase the demand on agency staff for consultation. There are other options that should be considered.

Persons Testifying: (In support) Representative Blake, prime sponsor; Ken Miller, Steve Stinson, and Rick Dunning, Washington Farm Forestry Association; David Townsend; Dave Lindeblom; and Doug Stinson, Cowlitz Ridge Tree Farm.

(With concerns) Debora Manguia, Washington Forest Protection Association.

(Opposed) Bridget Moran, Department of Natural Resources; and Steve Bernath, Department of Ecology.

Persons Signed In To Testify But Not Testifying: None.