

# SENATE BILL REPORT

## E2SHB 2238

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As Reported by Senate Committee On:  
Transportation, February 21, 2012

**Title:** An act relating to pairing required investments in compensatory environmental mitigation, including the mitigation of transportation projects, with existing programs currently referenced in Title 76 RCW that enhance natural environmental functions.

**Brief Description:** Regarding environmental mitigation.

**Sponsors:** House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Wilcox, Clibborn, Armstrong, Billig, Takko, Rivers, Angel, Hinkle, Schmick, Orcutt, Johnson, Warnick, Dahlquist, Blake and Chandler).

**Brief History:** Passed House: 2/13/12, 88-9.

**Committee Activity:** Transportation: 2/20/12, 2/21/12 [DPA].

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### SENATE COMMITTEE ON TRANSPORTATION

**Majority Report:** Do pass as amended.

Signed by Senators Haugen, Chair; Eide, Vice Chair; King, Ranking Minority Member; Fain, Assistant Ranking Minority Member; Delvin, Ericksen, Hill, Hobbs, Litzow, Ranker, Rolfes, Sheldon, Shin and Swecker.

**Staff:** Clint McCarthy (786-7319)

**Background:** State and federal governments require a proponent of a project that will diminish the function of an existing wetland to mitigate that loss of function. This duty is called compensatory wetland mitigation. The project proponent has a number of options available for mitigating wetland loss; however, any mitigation plan must be approved by the state, primarily through the Department of Ecology (DOE) and the United States Army Corps of Engineers.

**Summary of Bill (Recommended Amendments):** A new option for wetland mitigation is created that pairs mitigation investments with existing state programs which enhance or preserve riparian and aquatic resources. The existing state programs include the Family Forest Passage Program, the Forestry Riparian Easement Program, and the Riparian & Open Space Program. When an entity considers using these programs for wetland mitigation, they must consult with the departments of Transportation, Natural Resources, and Commerce;

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affected federally recognized Indian tribes; and private sector stakeholders such as forest landowners, environmental interests, and the development community. DOE and the Department of Fish and Wildlife (DFW) are authorized to seek federal or private funds and in-kind contributions to implement this wetland mitigation option. Requires DOE and DFW to report to the Legislature the successes and constraints of the identified programs and the appropriateness of extending the option to other additional programs.

**EFFECT OF CHANGES MADE BY TRANSPORTATION COMMITTEE (Recommended Amendments):** Restates Substitute Senate Bill No. 6093 as passed by the Senate Transportation Committee. Restates and reorders the list of entities that DOE may consult with in planning the long-term implementation of the policy contained in the bill.

**Appropriation:** None

**Fiscal Note:** Available

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony as Heard in Committee:** PRO: Stakeholders worked collaboratively to alleviate concerns with the bill. All stakeholders want a better way to spend mitigation dollars, and they see this bill as a step in the right direction. The Department of Natural Resources (DNR) thinks there is great need in the three programs that this bill affects.

**Persons Testifying:** PRO: Debra Munguia, WA Forest Protection Assn.; Bill Robinson, The Nature Conservancy; Heath Packard, DNR.