

SENATE BILL REPORT

SB 6093

As of January 25, 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 wetlands mitigation.

Sponsors: Senators Haugen, King, Sheldon, Eide, Swecker, Hatfield and Morton.

Brief History:

Committee Activity: Transportation: 1/25/12.

SENATE COMMITTEE ON TRANSPORTATION

Staff: Clint McCarthy (786-7319)

Background: Both the 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, and the United States Army Corps of Engineers.

Summary of Bill: The Riparian and Aquatic Resources Enhancement (RARE) Account is created to be administered by the Forest Practices Board (Board). Making payment to the RARE Account is optional and can be used for wetland mitigation. The RARE Account payment may, with the consent of the appropriate regulatory agency, represent all of or a portion of a project's wetland mitigation obligations and may be made in one lump sum or in timed payments. The revenue in the RARE Account must be used as contributing or additive funds for existing state programs that forward the enhancement or preservation of aquatic or riparian resources. The Board has the responsibility of pairing payments from the RARE Account with qualifying programs and with projects that satisfy the guidance for wetland mitigation projects.

Appropriation: None.

Fiscal Note: Available.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: WSDOT is interested in having more options for wetland mitigation and innovative approaches to wetland mitigation. Concerned as to whether or not the options available in the bill will satisfy the regulators as a means of mitigation. Washington Forest Protection Association thinks this bill will provide an additional mitigation tool and is a good use of mitigation dollars.

CON: Umatilla and Tulalip tribes object to how the Forest Practices Board is to only seek input from only state agencies, not tribes. Mitigating impacts in different places doesn't account for the impacts in the first place. The Nature Conservancy is encouraged by the bill, but they want to make sure that it will work. Too many obstacles are in the bill and need to satisfy agency needs.

OTHER: Department of Ecology supports the development of the approach and the affected forestry programs, wants to work with the writers of the bill. Department of Natural Resources wants to find more fund sources for land owners. Concerned that the Forest Practices Board shouldn't have authority over expenditures from the account. Department of Fish and Wildlife is supportive of providing more funding options, but have concerns with providing mitigation dollars for projects.

Persons Testifying: PRO: Doug Hooks, WA Forest Protection Assn.; Paul Wagner, WSDOT.

CON: Steve Robinson, Tulalip & Umatilla Tribes.

OTHER: Darin Cramer, WA Dept. of Natural Resources; Lauren Driscoll, Dept. of Ecology; David Whipple, WA Dept. of Fish and Wildlife; Bill Robinson, The Nature Conservancy; Yoshe Revelle; Miguel Perez-Gibson, WEC Colville Tribes.