
Environment Committee

HB 2095

Brief Description: Reducing the cost of transportation projects by linking state conservation investments with mitigation requirements.

Sponsors: Representatives Taylor, Shea, Overstreet, Scott, Condotta, Haler, Buys, Rodne, Pike and Magendanz.

Brief Summary of Bill

- Expands compensatory mitigation to include not only wetlands and uplands, but also other resources.
- Authorizes environmentally designated land to be used as compensatory mitigation for transportation projects by the Department of Transportation and local governments if the environmentally designated land has similar environmental benefits, and it was paid for in full or part by direct or indirect public funds.
- Requires that environmentally designated land be used only once for compensatory mitigation unless the land is enhanced or restored.

Hearing Date: 2/4/14

Staff: Megan Mulvihill (786-7291) and Jason Callahan (786-7117).

Background:

Mitigation to reduce environmental impacts may be required by a permitting agency before permit approval will be given to a project. Both the state and federal governments may require a project proponent that will diminish the function of an existing wetland to mitigate that loss of function.

Wetland mitigation begins with mitigation sequencing which is the implementation of steps or actions to avoid or minimize impacts to wetlands. After avoidance and minimization steps have been exhausted, compensatory mitigation may occur to restore, create, enhance, or preserve wetlands to replace those that are lost or degraded. Compensatory mitigation can occur on the

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affected site or at a different site. The Department of Ecology (DOE) and the United States Army Corps of Engineers have the authority to approve mitigation plans for wetlands.

Summary of Bill:

Compensatory mitigation is expanded to include not only uplands and wetlands, but also other resources.

A definition for "environmentally designated land" is added to mean land purchases or other acquisitions and investments that were paid for directly or indirectly by public funds and result in the creation, conservation, or enhancement of land that is an open space, a park, forest land, fish or wildlife habitat, a conservation area or easement, a wetland, a critical area, or property that is unlikely to be paved or have permanent structures erected on it.

When possible, the Department of Transportation (DOT) and local governments must use existing environmentally designated lands as mitigation for transportation projects. State agencies and local governments may not require the DOT or a local government to purchase, or acquire an interest in, land to be used as compensatory mitigation for a transportation project if an existing environmentally designated land satisfies mitigation requirements. The DOT and local governments have the authority to determine whether the environmentally designated land qualifies as mitigation.

In order for the DOT to use environmentally designated land for mitigation, it must have been paid in full or in part by direct or indirect state funds. In order for a local government to use environmentally designated land for mitigation, the land must have been paid in full or part by direct or indirect local funds unless the transportation project is being funded by state money.

A section of environmentally designated land may only be used once unless that section is restored or enhanced after its initial use.

The following chapters may not be implemented in any way that frustrates environmentally designated land used for compensatory mitigation for transportation projects by the DOT and local governments:

- Construction Projects in State Waters (chapter 77.55 RCW);
- the Forest Practices Act (chapter 76.09 RCW);
- the Shoreline Management Act (chapter 90.58 RCW);
- the Washington State Clean Air Act (chapter 70.94 RCW);
- Surface Mining (chapter 78.44 RCW);
- Floodplain Management (chapter 86.16 RCW);
- the Growth Management Act Planning by Counties and Cities (chapter 36.70A RCW);
- and
- Water Pollution Control (chapter 90.48 RCW).

Appropriation: None.

Fiscal Note: Not requested.

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