

Rural Development, Agriculture, & Natural Resources Committee

HB 1546

Brief Description: Concerning the proposed department of natural resources' marbled murrelet long-term conservation strategy.

Sponsors: Representatives Blake, Walsh, Chapman, Kretz, Orcutt, Shewmake and Tharinger.

Brief Summary of Bill

- Requires the Joint Legislative Audit and Review Committee (JLARC) to analyze the harvest volume and revenue impacts of the Department of Natural Resources' preferred marbled murrelet long-term strategy alternative.
- Requires the JLARC to compile the results of the analysis by December 31, 2019.
- Specifies that the Board of Natural Resources may not adopt a long-term strategy alternative until the JLARC analysis is complete and available to the public.

Hearing Date: 2/8/19

Staff: Rebecca Lewis (786-7339).

Background:

Marbled Murrelet Habitat Conservation Plan Update.

Federal Endangered Species Act.

Congress passed the federal Endangered Species Act (ESA) in 1973, which provides protection for threatened and endangered species. An endangered species is a species in danger of extinction throughout all or part of its historic range. A threatened species is a species likely to become endangered within the foreseeable future. The ESA generally prohibits take of protected species, which includes harassing, harming, or killing such species. The United States Fish and

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.

Wildlife Service (USFWS) has primary responsibility for the ESA administration with regard to threatened and endangered wildlife.

A habitat conservation plan (HCP) is a tool available to regulated parties under the ESA. An HCP is a voluntary, long-term planning agreement between the federal government and a state, locality, private landowner, or other non-federal party that sets conditions under which certain actions are permitted to occur, even though the actions may result in harm to an endangered species. An HCP commonly describes the effects the proposed actions will have on an endangered species, how those impacts will be minimized or mitigated, and how the mitigation will be funded. In addition, an HCP must provide elements which ensure any harm caused will be incidental, and that the harm will not appreciably reduce the likelihood of the survival or recovery of the affected species.

The Department of Natural Resources and Board of Natural Resources.

The Department of Natural Resources (DNR) manages a number of different categories of land on behalf of the State of Washington, each for a specific purpose and under different management requirements. Upon statehood, the United States granted Washington trust lands to support various public institutions.

The DNR manages approximately 3 million acres of federally granted trust lands that provide revenue for grade schools, state universities, buildings on the capitol campus, and correctional facilities.

The DNR also manages more than 600,000 acres of state forest lands, which were acquired primarily through tax foreclosures in the 1920s and 1930s, and to a lesser extent through purchases by the state or gifts to the state. State forest lands are managed for the benefit of the counties in which the lands are located.

The Board of Natural Resources (Board) sets policies to guide how the DNR manages the state's lands and resources. The Board has several responsibilities:

- approve or disapprove trust land timber and mineral sales;
- establish the sustainable harvest level for forested trust lands;
- approve or disapprove sales or exchanges of trust lands; and
- guide the DNR's stewardship of state Natural Area Preserves, Natural Resources Conservation Areas, and aquatic or submerged lands.

Marbled Murrelet.

The marbled murrelet (*Brachyramphus marmoratus*) is a species of bird that resides along the Pacific Coast of North America. In 1992 the USFWS listed the marbled murrelet as a threatened species in California, Oregon, and Washington. In 1997 the State of Washington, through the DNR, entered into a HCP for the marbled murrelet on certain trust lands managed by the DNR. The DNR and the USFWS are currently undergoing a process to amend the 1997 marbled murrelet HCP. Eight potential alternatives have been identified, labeled alternatives A, B, C, D, E, F, G, and H. Alternative H has been identified by the DNR as the "preferred alternative."

Limitation on Action During a State Environmental Policy Act Process.

The State Environmental Policy Act (SEPA) establishes a review process for state and local governments to identify environmental impacts that may result from governmental decisions, such as the issuance of permits or the adoption of land use plans. The SEPA environmental review process involves a project proponent or the lead agency completing an environmental checklist to identify and evaluate probable environmental impacts. Government decisions that are identified as having significant adverse environmental impacts must then undergo a more comprehensive environmental analysis in the form of an environmental impact statement (EIS). Under SEPA, a government agency is designated as the lead agency and in that role has responsibility for complying with SEPA's procedural requirements, including making a threshold determination as to whether an EIS is needed, and preparing the EIS when one is required.

If the SEPA review process identifies significant adverse environmental impacts, the lead agency may deny a government decision or may condition a proposal by requiring mitigation for identified environmental impacts. Specifically, SEPA provides that:

- a government action may be conditioned or denied on the basis of specific adverse environmental impacts; and
- in order to deny a project, a lead agency must determine that the project has significant adverse environmental impacts.

Generally, unless a final Determination of Nonsignificance or final EIS has been issued, no action may be taken on a proposal that would have an adverse environmental impact or limit the choice of reasonable alternatives.

Summary of Bill:

Marbled Murrelet Habitat Conservation Plan Update.

The Joint Legislative Audit and Review Committee (JLARC) must analyze the harvest volume and revenue impacts of the Department of Natural Resources' (DNR's) preferred alternative, identified as Alternative H, for the long-term conservation strategy. The analysis must report potential impacts to trust beneficiaries, local governments, and junior taxing districts. At a minimum, impacts must be reported by 10-year periods beginning with fiscal years 2015 through 2024, ending with fiscal years 2065 through 2074, and must include revenue, sustainable harvest volume, acres available for management, and acres deferred by age class. The JLARC must compile the results by December 31, 2019.

The Board of Natural Resources may not adopt a marbled murrelet conservation strategy until the JLARC analysis has been completed and made available for public review.

Limitation on Action During a State Environmental Policy Act Process.

Lands that are identified for potential set-aside under Alternatives F and G that are not included in alternatives A, B, C, D, E, or H are not subject to the limitation on action prior to the adoption of a final marbled murrelet conservation strategy.

Appropriation: None.

Fiscal Note: Available.

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