

# HOUSE BILL REPORT

## HB 2844

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### As Reported by House Committee On:

Ecology & Parks

Appropriations

**Title:** An act relating to preventing air and water pollution through urban forestry partnerships.

**Brief Description:** Regarding urban forestry.

**Sponsors:** Representatives Kagi, Priest, Upthegrove, Campbell, Simpson, Hunt, Blake, Jarrett, Nelson, Rolfes, Dickerson, Appleton, Takko, Loomis, Lantz, Pettigrew, Hunter, Moeller, Hudgins, Quall, O'Brien, Anderson, Kenney, Pedersen, McIntire and Roberts.

### Brief History:

#### Committee Activity:

Ecology & Parks: 1/22/08, 1/29/08 [DPS];

Appropriations: 2/11/08 [DP2S(w/o sub EPAR)].

#### Brief Summary of Second Substitute Bill

- Provides a mechanism to encourage local governments to develop and implement management plans and ordinances related to urban forestry.
- Creates a new grant program for local governments' urban forestry programs.
- Provides preference in certain grant programs for local governments with qualifying urban forestry programs.
- Changes the authority for the Department of Natural Resources (DNR) to conduct a community and urban forestry program from discretionary to mandatory.
- Requires the DNR to develop and conduct inventories and assessments of community and urban forests.

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### HOUSE COMMITTEE ON ECOLOGY & PARKS

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*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.*

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Upthegrove, Chair; Rolfes, Vice Chair; Dickerson, Dunshee, Eickmeyer and O'Brien.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Sump, Ranking Minority Member; Kristiansen and Pearson.

**Staff:** Jason Callahan (786-7117).

**Background:**

The Department of Natural Resources (DNR) is authorized to establish a community and urban forestry program. Community and urban forests are identified as land within human settlements that does, or could, support trees. The program authorized at the DNR may include assistance to local governments to encourage proper tree maintenance, policy and program coordination assistance, and the provision of surplus equipment to local governments to aid urban forestry programs.

The DNR is also authorized to enter into agreements with non-profit tree planting organizations and other entities with interests related to urban forestry. Funding can be received by the DNR from the federal government or by gifts and grants, and the DNR may charge fees for workshops and material distribution. Once received, the DNR utilizes the funding for the purposes of forwarding urban and community forestry in the state.

Urban Forestry and Utilities

Many utility companies currently provide information to their customers in regards to how landscaping and tree planting can reduce energy costs and improve utility safety. Utility companies also have received past legislative encouragement to request voluntary donations from their customers, in the form of a billing statement check-off, that would fund urban forestry efforts.

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**Summary of Substitute Bill:**

Evergreen Cities Recognition Program

Every city and county in the state has the discretionary authority to pursue recognition as an Evergreen City. There can be multiple gradations of Evergreen Cities, and the Department of Community, Trade and Economic Development (DCTED) is responsible for identifying the criteria necessary for each gradation. Criteria for becoming an Evergreen City includes developing a community forestry program, recognizing Arbor Day, and completing a forest inventory. The application process for becoming an Evergreen City is managed through the existing DNR Tree City, U.S.A. recognition program.

Designated Evergreen Cities are entitled to use logos and signage developed for that purpose by the DCTED. In addition, Evergreen Cities are entitled to a competitive advantage for certain state grant programs benefitting local governments. These programs include grants for

public works projects, water pollution control facilities, water quality, habitat improvements, and aquatic lands enhancement.

#### Evergreen City Management Plans

Cities pursuing designation as an Evergreen City are required to adopt an Evergreen City Urban Forestry Management Plan (Management Plan). The Management Plans developed by cities are required to be based on urban forest inventories. The inventories may be developed by the city, or the city may rely on inventories developed by the DNR.

The DCTED is tasked with the development of a model Management Plan for cities to consider. There are 16 elements presented for consideration in the model Management Plan. These elements address issues such as: pest management, prioritization of planting sites, staff training requirements, canopy cover goals, stormwater management improvements, and plans for maximizing building energy efficiency. The model Management Plans must contain measurable goals and timelines recognizing eco-regional differences in the state.

Once developed, a city's Management Plan may not be implemented until it has been reviewed by the DCTED. The Management Plan must be submitted to the DCTED for review and comment at least 60 days before its planned implementation date. The DCTED and the DNR are both required to review all proposed Management Plans and focus on a plan's consistency with the model Management Plan. The DCTED and the DNR are also authorized to offer technical assistance in the Management Plan adoption process.

#### Evergreen City Ordinances

The process of becoming recognized as an Evergreen City also requires cities to adopt an Evergreen City Ordinance. In addition to a model Management Plan, the DCTED is also required to develop a model Evergreen City Ordinance for consideration. The model ordinance development process is required to consider at least 12 elements. Topics that must be included in the model Evergreen City Ordinance include tree conservation and retention, tree spacing, use of native trees to reduce storm water runoff, use and protection of native soils, promotion of tree maintenance to promote utility safety, street tree installation, and riparian tree buffers. The Evergreen City Ordinances may also include a mechanism for civil enforcement, hardship waivers, and appeal procedures.

Like Management Plans, Evergreen City Ordinances must also be submitted for review by the DCTED and the DNR. The same direction given to the departments for Management Plans apply to Evergreen City Ordinances. The Evergreen City Ordinances and their predecessor Management Plans do not apply to working agriculture and forestry land until that land is converted into new development.

#### Identification of Lands for Purchase

Cities pursuing Evergreen City designation are encouraged to identify potential land that can be purchased from willing sellers that, due to the urban trees on the land, are appropriately situated for public purchase. The list of potential land purchases must be provided to the

DCTED by October 31, 2008, and a summary of those reports provided for the Legislature by the DCTED in December 2008.

### Role of Counties

Like cities, counties are also eligible for Evergreen City designation. A county may adopt its own Evergreen City Ordinance and apply that ordinance to new development within its jurisdiction. As an alternative, a city may request that a county apply its Evergreen City Ordinance to new development within its Urban Growth Area.

### Evergreen Cities Partnership Task Force

The DCTED is required to assemble an Evergreen Cities Partnership Task Force (Task Force) that will, in its primary role, aid and advise the DCTED in its responsibilities as they relate to urban forestry. The Task Force may be disbanded by the DCTED after it has advised on the development of model Management Plans and Evergreen City Ordinances and provided a similar service to the DNR on its development of urban forestry assessments.

The Task Force is to have up to 25 members that must be selected in consultation with the DNR and provide balanced representation from across the state's ecoregions. There are 19 required stakeholder and government representatives on the Task Force, and the Task Force may be assembled in a way that allows an individual to represent more than one perspective. The required perspectives include that of cities, counties, land developers, conservation organizations, the state and federal governments, university professors, tree nurseries, foresters, utilities, and technology specialists.

Members of the Task Force must serve without compensation, but may be reimbursed for travel expenses.

### Funds for Local Governments

The DCTED is instructed to implement the Evergreen Cities Grant Program (Grant Program). The Grant Program must be administered by the DCTED in coordination with the DNR, and have both needs-based and competitive elements. Grants from the Grant Program may be awarded to local governments in full compliance with the required Management Plans and Evergreen City Ordinances, or local governments that state an intent to become Evergreen Cities. In addition, recipient local governments must be able to show that they have developed partnerships with local not-for-profit organizations. Funding for the Grant Program will come from direct budget appropriation.

Cities can also receive money from their local utilities to fund urban forestry projects. The existing authorization for billing statement check-offs that utilities are encouraged to use for urban forestry donations is expanded. If a utility chooses to request voluntary donations from its customers, the money can be used one of two ways. It can be used by the utility to complete projects consistent with the model Management Plans developed by DCTED, or it can be used to support the development of Management Plans and Evergreen City Ordinances for cities within the utility's service area.

Utilities receiving voluntary urban forestry donations must report annually to the Department of Revenue the amount that was donated, along with whether or not the utility choose to match the voluntary donations. The Legislature intends to biannually match total donations to utilities in the form of funding to the DCTED. To aid this process, the Office of Financial Management must include as a proviso in developing budgets an appropriation for the Support Account matching the amount of voluntary contributions reported to the DCTED by the various utilities.

#### Changes at the Department of Natural Resources

The authority for the DNR to conduct a community and urban forestry program is changed from discretionary to mandatory, and definitions are provided for the terms "community and urban forest assessment" and "community and urban forest inventory."

In addition to requiring the current program to continue, the DNR is also directed to conduct a statewide inventory of community and urban forests, conduct an urban forest assessment, and develop an implementation plan for the inventory and assessment of community and urban forests. The DNR is directed to participate with appropriate stakeholders in the development of these products. The final assessment and inventory must be completed by no later than June 1, 2010.

The uniform criteria for the assessment must be developed by the DNR with the advice of the Task Force. The inventory must be developed with the aid of a technical advisory committee appointed by the Commissioner of Public Lands (Commissioner).

#### **Substitute Bill Compared to Original Bill:**

The substitute bill:

- removes the requirement that cities and counties adopt an Evergreen Cities Management Plan and Ordinance;
- allows the Commissioner to assemble a technical advisory committee that is separate from the Evergreen Cities Partnership Task Force;
- provides deadlines for initial inventories by the DNR;
- allows Evergreen Cities to be recognized along a series of steps, or gradations, and provides criteria as to what is required for each gradation;
- requires the development of model Evergreen City Ordinances and Management Plans by the DCTED;
- allows grants to go to cities that are in the process of becoming recognized as an Evergreen City, and not just to cities that have already received the designation;
- removes all enforcement mechanisms not adopted locally in a city or county's Evergreen City Ordinance;
- removes the new account;
- clarifies that the bill does not conflict with the Growth Management Act (GMA) or apply to working lands;
- removes the expectation that utilities collecting a voluntary contribution from their clients will provide that money to the state to help fund the urban forestry grant program,

specifies that entities not capable of becoming an Evergreen City are not disadvantaged in grant preferences;

- recognizes potential conflicts with solar energy generation; and
- allows the collection of voluntary donations by utilities to be considered prudent by the Utilities and Transportation Commission.

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**Appropriation:** None.

**Fiscal Note:** Available on original bill. Requested on substitute bill on January 29, 2008.

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

**Staff Summary of Public Testimony:**

(In support) City trees are being lost, and Washington must do what it can to protect them. Many communities are working hard at protecting their trees, but they need both financial and technical assistance to bolster their efforts. Only 10 percent of cities have urban tree inventories, and less than half have tree ordinances. A measured and reasonable state policy approach that provides for local control will give cities the support they need, and this approach meshes well with planning under the GMA and other local initiatives. Although state mandates can be burdensome, there are instances when the state needs to give local governments direction and keep them moving in the right direction. This bill does that, and aligns many grassroots efforts.

The maintenance of urban trees protects air quality, water quality, and the overall quality of life in a community. Trees also reduce energy costs. A healthy urban forest slows climate change by absorbing carbon from the atmosphere, and benefits nearby water bodies, including the Puget Sound, by acting as a buffer to mitigate the effects of stormwater. Healthy urban forests do not happen by accident. The investments in trees pay off in the form of environmental services and in utility safety and reliability.

The more trees a community has, the higher the real estate prices and the better children learn and deal with stress. Community livability decreases when trees are lost. Maintaining city trees leads to a better future, and decreases the cost to insurance companies and customers due to less claims for damage done by falling trees. Federal Way is one of the least attractive communities on the Interstate 5 corridor in part because it did not maintain any trees when it was developed.

(With concerns) As the state population increases, so does the pressure on cities to accommodate the new citizens. This creates many competing demands on local government. Developing a comprehensive urban tree program will take many years, and compete with other local priorities. There needs to be enough room built into the timelines for all required actors to have the time needed to do a quality job.

An incentive-based approach makes more sense than heavy-handed regulations. However, all of the groups involved with providing the incentives should be involved in developing the bill language. The exemption for working forests should be clarified.

(Opposed) If the bill eliminates or discourages in-fill development, then housing costs will increase.

**Persons Testifying:** (In support) Representative Kagi, prime sponsor; Terra Filmer, Sara Kath, Leslie Wahl, Nina Carter, and Heath Packard, Audubon; Rhenda Strub; Ken Johnson, Puget Sound Energy; Matt Mega, Seattle Audubon; Peggy Bruton, League of Women Voters of Washington Association; Kevin Raymond, Pacific Forest Trust; Janet Way, City of Shoreline; Sam Merrill, Black Hills Audubon Society; Cliff Traisman, Washington Conservation Voters/Washington Environmental Council; Dave Williams, Association of Washington Cities; Ben Cope, University of Puget Sound; Mary Lignana, Earth Ministry; Bruce Wishart, People for Puget Sound; and Bill LaBorde, Environment Washington.

(With concerns) Debora Munguia, Washington Forest Protection Association; Vicki Christiansen and Sarah Griffith, Department of Natural Resources; Leonard Bauer, Department of Community, Trade and Economic Development; and Melodie Selby, Department of Ecology.

(Opposed) Chris McCabe, Association of Washington Businesses and Andy Cook, Building Industry Association of Washington.

**Persons Signed In To Testify But Not Testifying:** None.

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Ecology & Parks. Signed by 27 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Haler, Assistant Ranking Minority Member; Anderson, Chandler, Cody, Conway, Darneille, Ericks, Fromhold, Grant, Green, Haigh, Hunt, Kagi, Kenney, Kessler, Linville, McIntire, Morrell, Pettigrew, Priest, Ross, Schual-Berke, Seaquist, Sullivan and Walsh.

**Minority Report:** Do not pass. Signed by 5 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Hinkle, Kretz and Schmick.

**Staff:** Alicia Dunkin (786-7178).

### **Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Ecology & Parks:**

The initial forest inventory and assessment required to be completed by the Department of Natural Resources by 2010 is limited to two counties. The participation of the Department of Ecology from the development of the Evergreen Cities Grant Program (Grant Program) is removed. Additional land types that are not affected by the bill are specified. The

Department of Natural Resources is required to serve as the lead agency on the early implementation portion of the Grant Program. The intent of having local governments to collect information about potential land purchases is clarified. The grant preferences for local jurisdictions are clarified to not take effect until one year after Model Evergreen City ordinances are available for statewide distribution. The direction to the Office of Financial Management to include in future budget requests funding for the Grant Program that is equal to the amount donated by utility customers for urban forestry program is removed.

A null and void clause was added, making the bill null and void unless funded in the budget.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Second Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed. However, the bill is null and void unless funded in the budget.

**Staff Summary of Public Testimony:**

(In support) Portland has reported that for every dollar that they invested in planting trees they received a return of \$3 in increased water and air quality. This bill supports good communities and includes incentives for cities to implement urban forests. This bill prioritizes utility safety. We support vegetation management because it protects our utilities. The Department of Natural Resources was before this committee previously in support of House Bill 2468, which included some of the same content as this bill and was agency request legislation. We think this bill could be done in steps and there is an amendment that would reduce the statewide urban forest inventory down to only two counties. We will significantly reduce our fiscal note if the inventory and assessment is reduced to two counties.

(Opposed) None.

**Persons Testifying:** Vicki Christiansen, Department of Natural Resources; Heath Packard, Audubon Society of Washington; and Kim Hoff, Puget Sound Energy.

**Persons Signed In To Testify But Not Testifying:** Cliff Traisman, Washington Environmental Council and Washington Climate Action; and Dave Williams, Association of Washington Cities.