

# SENATE BILL REPORT

## ESHB 2285

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As Reported by Senate Committee On:  
Agriculture, Water, Natural Resources & Parks, February 22, 2018  
Ways & Means, February 26, 2018

**Title:** An act relating to establishing a reporting process for the department of natural resources regarding certain marbled murrelet habitat information.

**Brief Description:** Establishing a reporting process for the department of natural resources regarding certain marbled murrelet habitat information.

**Sponsors:** House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Chapman, Tarleton, Lytton, Tharinger, Blake and Appleton).

**Brief History:** Passed House: 2/12/18, 54-43.

**Committee Activity:** Agriculture, Water, Natural Resources & Parks: 2/20/18, 2/22/18 [DP-WM, w/oRec].

Ways & Means: 2/24/18, 2/26/18 [DPA(WM), DNP, w/oRec].

### Brief Summary of Amended Bill

- Requires the Department of Natural Resources (DNR) to annually provide certain information and recommendations relating to the proposed long term marbled murrelet conservation strategy for state lands and state forestlands.

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## SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

**Majority Report:** Do pass and be referred to Committee on Ways & Means.  
Signed by Senators Van De Wege, Chair; McCoy, Vice Chair; Nelson.

**Minority Report:** That it be referred without recommendation.  
Signed by Senators Warnick, Ranking Member; Honeyford.

**Staff:** Curt Gavigan (786-7437)

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## SENATE COMMITTEE ON WAYS & MEANS

*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:** Do pass as amended by Committee on Ways & Means.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair; Billig, Carlyle, Conway, Darneille, Fain, Hasegawa, Hunt, Keiser, Mullet, Palumbo, Pedersen, Ranker and Van De Wege.

**Minority Report:** Do not pass.

Signed by Senators Honeyford, Assistant Ranking Member; Becker, Brown, Rivers, Schoesler and Warnick.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Bailey and Wagoner.

**Staff:** Jed Herman (786-7346)

**Background:** Federal Endangered Species Act (ESA). Congress passed the 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 a listed species, which includes harassing, harming, or killing such species.

Habitat Conservation Plans (HCP). An incidental take permit allows a person to legally proceed with an activity that would otherwise result in illegal take of a listed species. A HCP must accompany an application for an incidental take permit, and serves as an agreement between the federal government and permittee. An HCP must include an assessment of likely impacts, measures to minimize and mitigate for such impacts, alternatives evaluated by the applicant, and any additional measures required by the federal government. The federal government will issue an incidental take permit if the taking will be incidental, the applicant will minimize and mitigate impacts, adequate funding for the plan is available, and the taking will not reduce the likelihood of survival and recovery.

State Lands HCP. The state lands HCP was adopted in 1997. The HCP is a multi-species plan that includes coverage for species including the northern spotted owl, marbled murrelet, and riparian species. The HCP includes conservation measures for species and areas covered in the plan. In the case of marbled murrelets, the HCP identifies the 1997 plan as an interim strategy to be in place while a long term strategy is developed. In November 2017, the Board of Natural Resources (Board) directed DNR to develop, analyze, and submit a preferred alternative for a marbled murrelet long term conservation strategy and HCP amendment.

**Summary of Amended Bill:** DNR must provide an annual report to the Legislature with an economic analysis of potential losses or gains from any proposed long term marbled murrelet conservation strategy selected by the Board, forwarded to the federal government, and subsequently adopted by the Board. The initial report must also include recommendations in the following areas, to be updated in subsequent reports:

- actions that support maintaining or increasing certain jobs in affected rural communities;
- strategies to ensure no net loss of revenues to the trust beneficiaries;
- additional means of financing county services; and

- additional nonregulatory conservation measures that also provide economic benefits to rural communities.

The Commissioner of Public Lands must appoint an advisory committee to assist DNR in developing the required reports. The advisory committee may include representatives from trust beneficiaries, environmental organizations, local governments and junior taxing districts, milling and forestland interests, local public interest groups, and may consult with relevant agencies and tribes.

The annual report must begin by December 1, 2018, and continue until the federal government approves an incidental take permit for the marbled murrelet long-term conservation strategy. Prior to submitting each report, DNR must submit a draft to specified members of the Senate and House committees with jurisdiction over this issue. The relevant legislative standing committees must hold an annual meeting on the report and HCP update process.

**EFFECT OF WAYS & MEANS COMMITTEE AMENDMENT(S):**

- Directs the relevant legislative standing committees to hold an annual meeting on the report and HCP update process.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony on Engrossed Substitute House Bill (Agriculture, Water, Natural Resources & Parks):** PRO: It is important to look at how the marbled murrelet issues impact rural areas. There is appreciation for the Legislature exercising its fiduciary duty. Timber counties support this work and want to make sure the Legislature stays engaged. This is the product of significant compromise. It builds off analysis DNR has started and building a solutions table to discuss these issues.

OTHER: The forest products industry is key in rural areas. There is support for this bill, but there are potential improvements that could be made, including adding legislators to the task force, setting a baseline for analysis, and directing task force membership.

**Persons Testifying (Agriculture, Water, Natural Resources & Parks):** PRO: Representative Mike Chapman, Prime Sponsor; Jason Callahan, Washington Forest Protection Association; Laura Berg, Washington State Association of Counties; Darcy Nonemacher, Washington Environmental Council; Dave Warren, DNR.

OTHER: Bruce Beckett, Port of Port Angeles; Heath Heikkila, American Forest Resource Council.

**Persons Signed In To Testify But Not Testifying (Agriculture, Water, Natural Resources & Parks):** No one.

**Staff Summary of Public Testimony on Engrossed Substitute House Bill (Ways & Means):** *The committee recommended a different version of the bill than what was heard.*

PRO: The Board of Natural Resources has selected a preferred alternative in 2017 after many years of working under an interim plan. There is a process ongoing at the federal level, and DNR is working to finalize environmental review and then will proceed with federal review. The Commissioner is convening a solutions table to look at how to implement this plan with no net loss of jobs or revenue.

OTHER: The solutions table and process are already under way. There is no question we will need to mitigate economics impact, the question is how great it will be. Our focus is how to minimize the impacts of the long term plan because this is still an ongoing process. The current preferred alternative exceeds ESA needs, and the state should put forward a range of options.

**Persons Testifying (Ways & Means):** PRO: Dave Warren, DNR.

OTHER: Heath Heikkila, American Forest Resource Council.

**Persons Signed In To Testify But Not Testifying (Ways & Means):** No one.