

HOUSE BILL REPORT

HB 1546

As Reported by House Committee On:
Rural Development, Agriculture, & Natural Resources

Title: An act relating to the proposed department of natural resources' marbled murrelet long-term conservation strategy.

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 History:

Committee Activity:

Rural Development, Agriculture, & Natural Resources: 2/8/19, 2/20/19 [DPS].

Brief Summary of Substitute Bill

- Requires the Department of Natural Resources (DNR) to analyze the harvest volume and revenue impacts of the DNR's preferred marbled murrelet long-term strategy alternative.
- Requires the DNR to hold a 30-day public comment period on the review and subsequently report to the Legislature.
- Specifies that the Board of Natural Resources may not adopt a long-term strategy alternative until the DNR analysis is complete and available to the public.

HOUSE COMMITTEE ON RURAL DEVELOPMENT, AGRICULTURE, & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Blake, Chair; Chapman, Dye, Kretz, Orcutt, Pettigrew, Schmick, Springer and Walsh.

Minority Report: Do not pass. Signed by 5 members: Representatives Shewmake, Vice Chair; Chandler, Ranking Minority Member; Fitzgibbon, Lekanoff and Ramos.

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.

Minority Report: Without recommendation. Signed by 1 member: Representative Dent, Assistant Ranking Minority Member.

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 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 nonfederal 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 forestlands, 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 forestlands 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 an 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."

Summary of Substitute Bill:

Marbled Murrelet Habitat Conservation Plan Update.

The Department of Natural Resources (DNR) must analyze the harvest volume and revenue impacts of the 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. Once the review is complete, a 30-day public comment period must be held on the DNR review. The DNR must submit the results of the review and a summary of the public comments to the Legislature.

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

Lands identified for potential set-aside from timber harvest that are not included in the DNR's preferred alternative are not subject to any limitation on management activities related to marbled murrelet conservation following the issuance of a final Environmental Impact Statement.

Substitute Bill Compared to Original Bill:

The substitute bill requires the Department of Natural Resources (DNR) to complete the review instead of the Joint Legislative Audit and Review Committee, removes the due date, and adds a 30-day public comment period on the DNR review. Instead of reporting the results to the Board of Natural Resources, the DNR must report to the Legislature. The provision that lands under certain alternatives are not subject to a limitation on action under

state law or policy is removed. Instead, lands identified for potential set-aside from timber harvest that are not included in the DNR's preferred alternative are not subject to any limitation on management activities related to marbled murrelet conservation following the issuance of a final Environmental Impact Statement.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 21, 2019.

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

Staff Summary of Public Testimony:

(In support) Junior and senior taxing districts depend on steady revenue streams. The forest products industry is important to rural economies. Timber revenue supports libraries, schools, and counties. A county has repeatedly commented to the Board of Natural Resources urging them to include a greater level of detail of impacts to junior taxing districts. There are broad social and economic consequences to setting aside the amount of land currently proposed. Timber revenue makes up about 10 percent of Timberland Regional Library's annual budget, and other libraries across the state receive timber revenue. Rural libraries serve economically distressed counties and administer many programs to promote literacy and help people find jobs.

Legislators are trustees of state resources. Agencies are the trust managers. Trust beneficiaries have relied on revenue from trust lands to fund essential services. Twenty years ago, the trust manager set aside 42 percent of the trust asset for more certainty in the long run. There is a new proposal to set aside another \$500 million in assets. There was not enough information provided to the beneficiaries during the conservation plan process. It is positive that the Department of Natural Resources (DNR) is providing more information. This bill provides an important mechanism for independent review. There are proposed alternatives that will not be chosen, and there is support for the provision allowing revenue-generating activities on lands that will not be set aside after the final Environmental Impact Statement is issued.

(Opposed) At a time when groups should be working together, this bill undermines the collaborative long-term strategy process set up in House Bill 2285 in 2018. The Joint Legislative Audit and Review Committee study will duplicate some of the efforts the DNR is already working on, and will extend the process. Understanding impacts the habitat conservation plan (HCP) might have on junior taxing districts is good policy and is already underway, but there is a better way to achieve that goal. Understanding the overall impacts of the HCP changes is the first step. Finding solutions that benefit all parties involved is the next step. Members of the DNR's Solutions Table (Solutions Table) represent diverse interests and have been meeting since last May. Intervening in the State Environmental Policy Act (SEPA) and National Environmental Policy Act processes will harm the ability to bring a balanced set of recommendations and will disrupt the work of the Solutions Table.

(Other) There are several direct beneficiaries of timberlands held in trust. The marbled murrelet endangered listing affects revenue to those beneficiaries. The counties support, in principle, further financial review, but oppose any legislation that directly interferes with a SEPA process, as it sets a poor precedent. There is opposition to Alternative H, but also to alternatives F and G.

Persons Testifying: (In support) Representative Blake, prime sponsor; Bruce Beckett, Port of Port Angeles; Heath Heikkila, American Forest Resource Council; Cheryl Heywood, Timberland Regional Library; and Randy Ross, Grays Harbor County.

(Opposed) Miguel Perez-Gibson, Washington Environmental Council; and Angus Brodie, Department of Natural Resources.

(Other) Paul Jewell, Washington State Association of Counties.

Persons Signed In To Testify But Not Testifying: None.