

SENATE BILL REPORT

ESSB 5352

As Passed Senate, March 17, 2003

Title: An act relating to agricultural conservation programs.

Brief Description: Encouraging agricultural land use conservation programs.

Sponsors: Senate Committee on Agriculture (originally sponsored by Senators Haugen, Swecker, Doumit, Morton, Rasmussen, Hargrove, Horn and Shin).

Brief History:

Committee Activity: Agriculture: 2/6/03, 2/27/03 [DPS].

Passed Senate: 3/17/03, 45-4.

SENATE COMMITTEE ON AGRICULTURE

Majority Report: That Substitute Senate Bill No. 5352 be substituted therefor, and the substitute bill do pass.

Signed by Senators Swecker, Chair; Brandland, Vice Chair; Jacobsen, Rasmussen and Sheahan.

Staff: Bob Lee (786-7404)

Background: In 1997, the Salmon Restoration Task Force was created by the Legislature to study how the state of Washington should respond to the listing of certain salmon stocks either as threatened or endangered under the federal Endangered Species Act. During that process, the task force evaluated the federal Conservation Reserve Enhancement Program which provided a nonregulatory means to restore and enhance riparian habitat for fish on agricultural lands in the state.

During the 1998 session, state matching funds were appropriated to the State Conservation Commission to formulate and offer the cooperative federal-state program to agricultural lands in the State of Washington. Up to 100,000 acres in each state can be enrolled into the program. To enroll, a contract with a 10 to 15 year term is signed by the land owner. Generally, the contract requires that trees and shrubs be planted adjacent to the stream corridor.

Similar programs were launched during the same time frame by five other states. In 2002, the Oregon Department of Agriculture and the Oregon Association of Conservation Districts conducted a study of the programs offered by six states, including Oregon and Washington. The purpose of the study was to evaluate these programs to determine their characteristics and their success. According to that study, Washington State had the fewest acres enrolled in the program while offering the highest annual rental rate. The study identified a number of factors that contributed to a low rate of participation in Oregon. Several states provide the option for permanent easements.

The Growth Management Act contains provisions to protect agricultural land. Counties that choose to plan under the act are required to designate agricultural lands of long-term commercial significance and to protect these land in their development regulations. In 2000, the state Supreme Court issued a decision (142 Wn.2d 543) that prevented King County from allowing designated agricultural land to be used for "temporary" soccer fields. Dicta in the case referred to the obligation of a county to protect designated agricultural lands and that this included a no net loss of agricultural land principal.

During the process to adopt a critical area ordinance, a letter from USDA indicated that if a county were to require that landowners plant a treed riparian buffer as a matter of law, landowners subject to that law would be ineligible to enroll that land in the Conservation Reserve Enhancement Program.

Summary of Bill: The policy-making entity of state conservation programs is authorized to enter into agreements with the United States Department of Agriculture to implement a conservation reserve enhancement program. The program must be delivered by local conservation districts. The policy-making entity is encouraged to examine studies conducted by other states on how to increase participation rates while reducing overall costs.

Among the alternatives to be offered in Washington State is conservation practice 391 as established by the federal Natural Resource Conservation Service.

The policy goal is to maximize the number of miles of stream that are benefitted by the program, while minimizing the total number of acres of agricultural land that are taken out of production. Also to be examined is how other states have incorporated the option of a permanent easement that continues beyond the contract period.

If sufficient funds are not appropriated, conservation districts may apply for additional funding to the Salmon Recovery Funding Board.

The policy-making entity in consultation with the Governor, is the sole contact person for the State of Washington with USDA and the Congressional Delegation in regards to developing a successful program.

Added to the definition of "agricultural activity" is enrolling and allowing land to remain in a local, state, or federal conservation program, such as the conservation reserve program or the conservation reserve enhancement program for the duration of the contract and subsequent extensions.

No county is to adopt development regulations that directly or indirectly preclude a person owning land from being able to qualify for enrollment of a parcel or a portion of a parcel in the conservation reserve enhancement program.

Enrolling land designated by a county as agricultural land of long-term commercial significance is not to be considered a violation of its designation. After expiration of the contract and subsequent extensions, enrolled land is allowed to return to its designated agricultural use unless a permanent easement has been acquired.

Each county and city with agricultural lands designated under the Growth Management Act must allow wineries, tasting rooms and accessory uses within these agricultural land designations.

Appropriation: None.

Fiscal Note: Requested on January 28, 2003.

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

Testimony For: The Conservation Reserve Enhancement Program can be made more successful by providing a larger range of conservation practice alternatives, and providing the 35 foot buffer option in Washington, as is being done in Oregon, should help.

Testimony Against: An amendment to the bill to make it neutral on the question of what entity should administer agricultural conservation programs is desired.

Testified: Jim Jesernig, WACD (pro w/amendment); Carolyn Kelly, Skagit Conservation District (pro w/amendment).