

SENATE BILL REPORT

ESSB 5396

As Passed Senate, March 16, 2005

Title: An act relating to expanding the criteria for habitat conservation programs.

Brief Description: Expanding the criteria for habitat conservation programs.

Sponsors: Senate Committee on Natural Resources, Ocean & Recreation (originally sponsored by Senators Fraser, Esser, Jacobsen, Oke, Regala, Swecker, Rockefeller, Spanel, Pridemore, Thibaudeau, Haugen and Kline).

Brief History:

Committee Activity: Natural Resources, Ocean & Recreation: 2/2/05, 3/2/05 [DPS-WM, DNP].

Ways & Means: 3/4/05, 3/7/05 [DPS(NROR), DNP, w/oRec].

Passed Senate: 3/16/05, 44-4.

SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

Majority Report: That Substitute Senate Bill No. 5396 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Jacobsen, Chair; Doumit, Vice Chair; Oke, Ranking Minority Member; Fraser, Hargrove, Morton, Spanel and Swecker.

Minority Report: Do not pass.

Signed by Senator Stevens.

Staff: Curt Gavigan (786-7437)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5396 as recommended by Committee on Natural Resources, Ocean & Recreation be substituted therefor, and the substitute bill do pass.

Signed by Senators Prentice, Chair; Doumit, Vice Chair; Fraser, Vice Chair; Brandland, Fairley, Kohl-Welles, Parlette, Pflug, Pridemore, Rasmussen, Regala, Rockefeller and Thibaudeau.

Minority Report: Do not pass.

Signed by Senators Roach and Schoesler.

Minority Report: That it be referred without recommendation.

Signed by Senators Zarelli, Ranking Minority Member and Hewitt.

Staff: Brian Sims (786-7431)

Background: The Washington Wildlife and Recreation Program (WWRP) provides funds for the acquisition and development of outdoor recreation and habitat conservation areas. Counties, cities, ports, park and recreation districts, school districts, state agencies, and tribes are eligible to apply. Grant applications are evaluated annually and the Interagency Committee for Outdoor Recreation submits a list of prioritized projects to the Governor and Legislature for approval.

Half of the funds appropriated in a biennium for the WWRP are for habitat conservation, and are allocated according to a statutory formula for critical habitat, natural areas, and urban wildlife habitat. The other half of the funds are appropriated for outdoor recreation, allocated by formulas established in statute for state parks, local parks, trails, and water access sites. A portion of each account is left unallocated.

Summary of Bill: Two new funds are created for administration by the Interagency Committee for Outdoor Recreation (Committee). The riparian protection account is created to distribute funds for the acquisition and enhancement or restoration of riparian habitat. Riparian habitat is defined as land adjacent to water bodies, as well as submerged land and stream beds, which can provide habitat for fish and wildlife species. The farmlands preservation account is created and funds may be used for the acquisition of farmlands, their enhancement or restoration, or both. At least fifty percent of funds for riparian protection and farmlands preservation must be used to acquire nonperpetual real property interests with terms not exceeding fifty years in duration.

Appropriations for a biennium of up to forty million dollars or less are split equally between the habitat conservation account and the outdoor recreation account. The riparian protection account and farmlands preservation account receive a portion of any appropriations to the WWRP exceeding forty million dollars.

Within the habitat conservation account, allocations to the existing categories are increased and a new category is created for restoration and enhancement projects by state agencies, leaving no unallocated funds. Within the outdoor recreation account, allocations to the existing categories are also increased and a new category is created for development and renovation projects on state lands, leaving no unallocated funds. Criteria for grants for habitat conservation and outdoor recreation are revised to include such considerations as consistency with land use, shoreline, watershed, and recovery plans, inclusion of noxious weed control management plans, and the statewide significance of critical habitat projects.

The Committee may retain up to three percent of WWRP funds for administration. The Committee may accept private donations to the WWRP accounts. Project lists are prepared and submitted to the Governor in even numbered years.

Lands acquired by the Department of Natural Resources and the Department of Fish and Wildlife using funds from the habitat conservation account are subject to payments in lieu of property taxes and for weed control. Lands acquired by state agencies using funds from the riparian protection account are also subject to payments in lieu of property taxes and for weed control.

State or local agencies must review a proposed project application with the local government with jurisdiction over lands proposed for acquisition with WWRP grant funds.

Moneys appropriated for purposes of riparian protection, critical habitat, and urban wildlife habitat may be used to fund mitigation banking projects. Such moneys may not, however, be used to supplant a state or local agency's obligation to provide mitigation.

Habitat and recreation lands acquired using WWRP grant funds may not be converted to a use other than that for which funds were originally approved without the approval of the Committee.

If the acquisition of property for riparian protection reduces the development potential of land in a county or city planning under the Growth Management Act (GMA), a county must increase the total amount of land suitable for development within the county to offset such a reduction.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Portions of the bill take effect July 1, 2005, and other portions take effect July 1, 2007.

Testimony For: Payments in lieu of property taxes would protect counties from losing part of their tax base when lands are acquired through the WWRP. Expanding grant criteria to include factors relating to local planning would assist local governments implement these plans. The addition of the riparian protection account and the farmlands preservation account provide additional means to accomplish the WWRP's goals. As Washington State grows, the WWRP provides a valuable opportunity to preserve habitat and the state's high quality of life.

Testimony Against: Washington State suffers from a lack of land on which to build, a problem which further land acquisitions by the state will only increase. The state should work to enhance lands it owns, not to purchase new property.

Who Testified: PRO: Bonnie Bunning, Department of Natural Resources; Don Stuart, American Farmland Trust; Dwight Sutton, City of Bainbridge Island; Mike Ryherd, Washington Wildlife and Recreation Coalition; Bob Rose, Skagitians to Preserve Farmland; Mark Quinn, Department of Fish and Wildlife; Fred Romero, Parks and Recreation Commission; Eric Johnson, Lewis County WWRC; Joanna Grist, Washington Wildlife and Recreation Coalition; Linda Oestreich, City of Olympia; Bill Robinson, The Nature Conservancy; Paul Parker, Washington State Association of Counties.

CON: John Stuhlmiller, Farm Bureau; Andy Cook, Building Industry Association of Washington.

House Amendment(s): The amendments adopted in the House make the following changes to ESSB 5396:

- 1) the language requiring that at least fifty percent of riparian protection and farmlands preservation account funds be used for the acquisition of nonperpetual real property interests with terms not exceeding fifty years in duration is removed;

- 2) the language requiring counties to take action to avoid a reduction in land suitable for development as a result of acquisitions from the riparian protection account is removed;
- 3) the language providing that payments in lieu of taxes on lands acquired by agencies, in counties with less than thirty percent of land in private ownership, be calculated at one hundred percent of the true and fair value of property, instead of the property's value as open space land, is removed;
- 4) the IAC, Department of Fish and Wildlife, Department of Natural Resources, and counties are required to work together and provide, by December 1, 2005, a report on: the fiscal impact of the payments in lieu of taxes required by this act; and the fiscal consequences of providing payments in lieu of taxes based on one hundred percent of the fair market value of property in counties with less than thirty percent of land in private ownership;
- 5) the IAC is provided the authority to use moneys appropriated to an account that are not obligated to a specific project to fund projects from lists of alternate projects from the same account in future biennia;
- 6) moneys appropriated for riparian protection and habitat conservation may be used to fund mitigation banking projects, provided that the parties seeking to use the mitigation bank meet the WWRP's matching funds requirement; and
- 7) technical changes are made to the language requiring the IAC to consider a project proposal's program for the control of noxious weeds and detrimental invasive species.

Passed House: 60-36.