

SENATE BILL REPORT

SHB 1409

As Reported By Senate Committee On:
Natural Resources, Ocean & Recreation, March 28, 2007
Ways & Means, April 2, 2007

Title: An act relating to the transfer of jurisdiction over conversion-related forest practices to local governments.

Brief Description: Transferring jurisdiction over conversion-related forest practices to local governments.

Sponsors: House Committee on Agriculture & Natural Resources (originally sponsored by Representatives B. Sullivan, Orcutt, Kretz and Takko).

Brief History: Passed House: 2/23/07, 94-0.

Committee Activity: Natural Resources, Ocean & Recreation: 3/19/07, 3/28/07 [DPA-WM].

Ways & Means: 4/02/07 [DPA(NROR)].

SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Jacobsen, Chair; Rockefeller, Vice Chair; Morton, Ranking Minority Member; Fraser, Hargrove, Poulsen, Spanel, Stevens and Swecker.

Staff: Curt Gavigan (786-7437)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended by Committee on Natural Resources, Ocean & Recreation.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Carrell, Fairley, Hatfield, Hobbs, Honeyford, Keiser, Kohl-Welles, Oemig, Parlette, Rasmussen, Regala, Roach, Rockefeller, Schoesler and Tom.

Staff: Kirstan Arestad (786-7708)

Background: The requirement to provide notice or submit an application prior to conducting forest practices varies depending on the specific type of activity to be conducted. Forest

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practices are divided into Classes I through IV, based on a particular activity's potential impact on public resources.

Class IV forest practices generally consist of activities where conversion to non-forestry use is at issue or that have the potential for substantial impact on the environment. This includes activities on lands actually being converted, where an applicant indicates that they will convert, or on lands in an urban growth area. Class IV forest practices must be preapproved by either the Department of Natural Resources (DNR) or an authorized local government.

Counties and cities currently have the authority to approve or disapprove certain Class IV forest practices applications. In order to assume approval authority, the county or city must adopt ordinances that establish minimum standards for Class IV forest practices, establish necessary administrative provisions, and set procedures for the collection of fees.

The authority to approve or disapprove Class IV forest practices applications does not pass from DNR to the city or county until DNR has approved the city's or county's ordinances. In conducting a review of the local government's proposed ordinances, DNR is required to consult with Department of Ecology (DOE), and may disapprove the ordinance wholly or in part.

All cities and counties were required to adopt the necessary ordinances for Class IV forest practices approval by December 31, 2005. Counties and cities that adopted the necessary ordinances to obtain control over Class IV forest practices approvals were eligible for technical assistance from DNR until January 1, 2006.

Summary of Substitute Bill: The current process for transferring authority to approve or disapprove forest practices applications is repealed. A new mechanism with new dates is established.

Mandatory v. Discretionary Authority: Counties planning under the Growth Management Act (GMA), and the cities within those counties, must adopt regulations governing certain forest practices if more than 25 conversion-related Class IV forest practices were filed between January 1, 2003, and December 31, 2005. These jurisdictions must adopt regulations covering certain forest practices: (1) within an urban growth area, subject to an exception for certain parcels of 20 or more acres; (2) on lands platted later than 1959; (3) on lands that are already in the process of being converted to a non-forestry use; and (4) on lands that are not to be reforested because of the likelihood of future urban development.

Counties planning under the GMA, and the cities within those counties, may choose to adopt regulations governing certain forest practices if 25 or fewer conversion related Class IV forest practices were filed between January 1, 2003, and December 31, 2005.

Counties not planning under the GMA, and the cities within them, have the discretionary authority to adopt regulations and assume the jurisdiction over Class IV forest practices on: (1) lands platted later than 1959; (2) lands that are already in the process of being converted to a non-forestry use; and (3) lands that are not to be reforested because of the likelihood of future urban development.

Requirements for Assuming Local Control: The ordinances adopted by the counties and cities must require appropriate approvals for all phases of forest land conversion and procedures for

the collection of all administrative and permit fees. Development regulations must protect public resources from material damage. The local jurisdiction must also ensure consistency between its comprehensive plan and the new development regulations. A county or city cannot assume jurisdiction over forest practices approvals without bringing their critical areas and development regulations in compliance with the current requirements and notifying both DNR and DOE at least 60 days before adoption of the necessary ordinances.

Exclusive jurisdiction over forest practices' approvals remains with DNR until a county or city satisfies all requirements for the jurisdictional transfer. DNR must provide technical assistance to the cities and counties during and after the process of ordinance adoption.

Forest Excise Tax: Local governments regulating forest practices must report permit information to the Department of Revenue (DOR), based on an agreement between the local government and DOR, in order to improve the administration of the Forest Excise Tax.

EFFECT OF CHANGES MADE BY RECOMMENDED AMENDMENT(S) AS PASSED COMMITTEE (Natural Resources, Ocean & Recreation): The underlying language requires local governments, before assuming regulatory control over conversion related forest practices, to ensure that they have met the statutory review requirements for comprehensive plans and critical areas regulations. The committee amendment further specifies that the local forest practices regulations must be consistent with or supplement local critical areas regulations.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony (Natural Resources, Ocean & Recreation): PRO: Local land use decisions, including forest conversion activities, should be within the purview of local governments. This bill reduces the required regulatory burden on landowners, as well as counties and cities who have few forestland conversions. Stakeholders have collaborated to create this bill, with significant work occurring in the interim. A friendly amendment suggestion is to clarify that the local forest practice standards are consistent with local land use regulations.

Persons Testifying (Natural Resources, Ocean & Recreation): PRO: Leonard Young, DNR; Eric Johnson, Washington Association of Counties; Miguel Perez Gibson, Washington Forest Law Center.

Staff Summary of Public Testimony (Ways & Means): PRO: Much work has gone into this bill. Local land decisions should be a local government responsibility. The bill reduces regulatory complexity.

Persons Testifying (Ways & Means): PRO: Eric Johnson, Washington Association of Counties; Chuck Turley, DNR; Miguel Perez-Gibson, Audubon.