

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5248

Chapter 353, Laws of 2007

60th Legislature
2007 Regular Session

AGRICULTURAL LANDS--VIABILITY

EFFECTIVE DATE: 05/08/07

Passed by the Senate April 17, 2007
YEAS 45 NAYS 2

BRAD OWEN

President of the Senate

Passed by the House April 13, 2007
YEAS 82 NAYS 15

FRANK CHOPP

Speaker of the House of Representatives

Approved May 8, 2007, 2:46 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5248** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

May 10, 2007

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5248

AS AMENDED BY THE HOUSE

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

By Senate Committee on Agriculture & Rural Economic Development
(originally sponsored by Senators Hatfield, Schoesler, Rasmussen,
Morton, Honeyford, Haugen, Shin and Holmquist)

READ FIRST TIME 02/07/07.

1 AN ACT Relating to preserving the viability of agricultural lands;
2 adding a new section to chapter 36.70A RCW; creating new sections;
3 providing an expiration date; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that the goal of
6 preserving Washington's agricultural lands is shared by citizens
7 throughout the state. The legislature recognizes that efforts to
8 achieve a balance between the productive use of these resource lands
9 and associated regulatory requirements have proven difficult, but that
10 good faith efforts to seek solutions have yielded successes. The
11 legislature believes that this willingness to find and pursue common
12 ground will enable Washingtonians to enjoy the benefits of a successful
13 agricultural economy and a healthy environment, while also preventing
14 the unnecessary conversion of valuable agricultural lands.

15 (2) The legislature, therefore, intends this act, the temporary
16 delays it establishes for amending or adopting provisions of certain
17 critical area ordinances, and the duties and requirements it prescribes
18 for the William D. Ruckelshaus Center, to be expressions of progress in

1 resolving, harmonizing, and advancing commonly held environmental
2 protection and agricultural viability goals.

3 (3) The legislature fully expects the duties and requirements it is
4 prescribing for the Ruckelshaus Center to be successful. If, however,
5 the efforts of the center do not result in agreement on how to best
6 address the conflicts between agricultural activities and certain
7 regulatory requirements as they apply to agricultural activities, the
8 legislature intends, upon the expiration of the delay, to require
9 jurisdictions that have delayed amending or adopting certain regulatory
10 measures to promptly complete all regulatory amendments or adoptions
11 necessary to comply with the growth management act.

12 (4) The legislature does not intend this act to reduce or otherwise
13 diminish existing critical area ordinances that apply to agricultural
14 activities during the deferral period established in section 2 of this
15 act.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.70A RCW
17 to read as follows:

18 (1) For the period beginning May 1, 2007, and concluding July 1,
19 2010, counties and cities may not amend or adopt critical area
20 ordinances under RCW 36.70A.060(2) as they specifically apply to
21 agricultural activities. Nothing in this section:

22 (a) Nullifies critical area ordinances adopted by a county or city
23 prior to May 1, 2007, to comply with RCW 36.70A.060(2);

24 (b) Limits or otherwise modifies the obligations of a county or
25 city to comply with the requirements of this chapter pertaining to
26 critical areas not associated with agricultural activities; or

27 (c) Limits the ability of a county or city to adopt or employ
28 voluntary measures or programs to protect or enhance critical areas
29 associated with agricultural activities.

30 (2) Counties and cities subject to deferral requirements under
31 subsection (1) of this section:

32 (a) Should implement voluntary programs to enhance public resources
33 and the viability of agriculture. Voluntary programs implemented under
34 this subsection (2)(a) must include measures to evaluate the successes
35 of these programs; and

36 (b) Must review and, if necessary, revise critical area ordinances

1 as they specifically apply to agricultural activities to comply with
2 the requirements of this chapter by December 1, 2011.

3 (3) For purposes of this section and section 3 of this act,
4 "agricultural activities" means agricultural uses and practices
5 currently existing or legally allowed on rural land or agricultural
6 land designated under RCW 36.70A.170 including, but not limited to:
7 Producing, breeding, or increasing agricultural products; rotating and
8 changing agricultural crops; allowing land used for agricultural
9 activities to lie fallow in which it is plowed and tilled but left
10 unseeded; allowing land used for agricultural activities to lie dormant
11 as a result of adverse agricultural market conditions; allowing land
12 used for agricultural activities to lie dormant because the land is
13 enrolled in a local, state, or federal conservation program, or the
14 land is subject to a conservation easement; conducting agricultural
15 operations; maintaining, repairing, and replacing agricultural
16 equipment; maintaining, repairing, and replacing agricultural
17 facilities, when the replacement facility is no closer to a critical
18 area than the original facility; and maintaining agricultural lands
19 under production or cultivation.

20 NEW SECTION. **Sec. 3.** (1) Subject to the availability of amounts
21 appropriated for this specific purpose, the William D. Ruckelshaus
22 Center must conduct an examination of the conflicts between
23 agricultural activities and critical area ordinances adopted under
24 chapter 36.70A RCW. The examination required by this section must
25 commence by July 1, 2007.

26 (2) In fulfilling the requirements of this section, the center
27 must: (a) Work and consult with willing participants including, but
28 not limited to, agricultural, environmental, tribal, and local
29 government interests; and (b) involve and apprise legislators and
30 legislative staff of its efforts.

31 (3) The examination conducted by the center must be completed in
32 two distinct phases in accordance with the following:

33 (a) In the first phase, the center must conduct fact-finding and
34 stakeholder discussions with stakeholders identified in subsection (2)
35 of this section. These discussions must identify stakeholder concerns,
36 desired outcomes, opportunities, and barriers. The fact-finding must
37 identify existing regulatory, management, and scientific information

1 related to agricultural activities and critical areas including, but
2 not limited to: (i) Critical area ordinances adopted under chapter
3 36.70A RCW; (ii) acreage enrolled in the conservation reserve
4 enhancement program; (iii) acreage protected by conservation easements;
5 (iv) buffer widths; (v) requirements of federally approved salmon
6 recovery plans; (vi) the impacts of agricultural activities on Puget
7 Sound recovery efforts; and (vii) compliance with water quality
8 requirements. The center must issue two reports of its fact-finding
9 efforts and stakeholder discussions to the governor and the appropriate
10 committees of the house of representatives and the senate by December
11 1, 2007, and December 1, 2008; and

12 (b)(i) In the second phase, the center must facilitate discussions
13 between the stakeholders identified in subsection (2) of this section
14 to identify policy and financial options or opportunities to address
15 the issues and desired outcomes identified by stakeholders in the first
16 phase of the center's examination efforts.

17 (ii) In particular, the stakeholders must examine innovative
18 solutions including, but not limited to, outcome-based approaches that
19 incorporate, to the maximum extent practicable, voluntary programs or
20 approaches. Additionally, stakeholders must examine ways to modify
21 statutory provisions to ensure that regulatory constraints on
22 agricultural activities are used as a last resort if desired outcomes
23 are not achieved through voluntary programs or approaches.

24 (iii) The center must work to achieve agreement among participating
25 stakeholders and to develop a coalition that can be used to support
26 agreed upon changes or new approaches to protecting critical areas
27 during the 2010 legislative session.

28 (4) The center must issue a final report of findings and
29 legislative recommendations to the governor and the appropriate
30 committees of the house of representatives and the senate by September
31 1, 2009.

32 NEW SECTION. **Sec. 4.** If specific funding for the purposes of
33 section 3 of this act, referencing this act and section 3 of this act
34 by bill or chapter number and section number, is not provided by June
35 30, 2007, in the omnibus appropriations act, this act is null and void.

1 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and takes effect
4 immediately.

5 NEW SECTION. **Sec. 6.** This act expires December 1, 2011.
 Passed by the Senate April 17, 2007.
 Passed by the House April 13, 2007.
 Approved by the Governor May 8, 2007.
 Filed in Office of Secretary of State May 10, 2007.