

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 5108

Chapter 352, Laws of 2007
(partial veto)

60th Legislature
2007 Regular Session

FARMLAND PRESERVATION

EFFECTIVE DATE: 07/22/07

Passed by the Senate April 14, 2007
YEAS 46 NAYS 3

BRAD OWEN

President of the Senate

Passed by the House April 10, 2007
YEAS 95 NAYS 3

FRANK CHOPP

Speaker of the House of Representatives

Approved May 8, 2007, 2:42 p.m., with
the exception of sections 6 and 7 which
are vetoed.

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 5108** 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 5108

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 Haugen, Rasmussen, Jacobsen, Shin,
Spanel, Swecker, Brandland, Hatfield and Parlette)

READ FIRST TIME 02/12/07.

1 AN ACT Relating to farmland preservation; amending RCW 89.08.530
2 and 89.08.540; adding a new section to chapter 90.84 RCW; adding a new
3 chapter to Title 89 RCW; providing an expiration date; and declaring an
4 emergency.

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

6 NEW SECTION. **Sec. 1.** FINDINGS AND PURPOSE. The legislature finds
7 that maintaining the capacity to provide adequate food and fiber
8 resources is essential to the long-term sustainability of the state's
9 citizens and economy. The nation's population has reached three
10 hundred million and will continue to increase for the foreseeable
11 future. Further, the world population is now over six billion and is
12 projected to reach nine billion by the year 2050.

13 In Washington state, the population is growing by over one million
14 people every decade with much of this growth occurring in western
15 Washington. This growth is increasing the competition for land not
16 only for housing, but also associated retail, commercial, industrial,
17 and leisure industries.

18 The legislature finds that many once-productive agricultural areas
19 in western Washington have been overtaken and irreversibly converted to

1 nonagricultural uses. Other agricultural areas in the state have
2 diminished to the point that they are dangerously close to losing the
3 land mass necessary to be economically viable. Further, only a limited
4 number of areas in western Washington still retain a sufficient
5 agricultural land base and the necessary agricultural infrastructure to
6 continue to be economically viable both in the short term and the long
7 term.

8 The legislature recognizes that because this significant decline
9 has largely occurred in less than a half century, it is imperative that
10 mechanisms be established at the state level to focus attention, take
11 the action needed to retain agricultural land, and ensure the
12 opportunity for future generations to farm these lands.

13 The legislature finds that history shows that previous advanced
14 civilizations in the world were founded on highly productive
15 agricultural lands and food production systems but when the land or its
16 productivity was lost, the civilizations declined. In contrast, other
17 civilizations have existed for millennia because they maintained their
18 agricultural land base, its productivity, and economic conditions
19 sufficient to maintain stewardship of their land.

20 The legislature finds that there is a finite quantity of high
21 quality agricultural land and that often this agricultural land is
22 mistakenly viewed as an expendable resource. The legislature finds
23 that the retention of agricultural land is desirable, not only to
24 produce food, livestock, and other agricultural products, but also to
25 maintain our state economy and preferable environmental conditions.
26 For these reasons, and because it is essential that agricultural
27 production be sufficient to meet the needs of our growing population,
28 commitment to the retention of agricultural land should be reflected at
29 the state policy level by the creation of an office of farmland
30 preservation to support the retention of farmland and the viability of
31 farming for future generations.

32 NEW SECTION. **Sec. 2.** OFFICE OF FARMLAND PRESERVATION--POWERS AND
33 DUTIES. (1) The office of farmland preservation is created and shall
34 be located within the state conservation commission.

35 (2) Staff support for the office shall be provided by the state
36 conservation commission.

37 (3) The office of farmland preservation may:

1 (a) Provide advice and assist the state conservation commission in
2 implementing the provisions of RCW 89.08.530 and 89.08.540, including
3 the merits of leasing or purchasing easements for fixed terms in
4 addition to purchasing easements in perpetuity;

5 (b) Develop recommendations for the funding level and for the use
6 of the agricultural conservation easements account established in RCW
7 89.08.540 with the guidance of the farmland preservation task force
8 established under section 3 of this act;

9 (c) With input from the task force created in section 3 of this
10 act, provide an analysis of the major factors that have led to past
11 declines in the amount and use of agricultural lands in Washington and
12 of the factors that will likely affect retention and economic viability
13 of these lands into the future including, but not limited to, pressures
14 to convert land to nonagricultural uses, loss of processing plants and
15 markets, loss of profitability, productivity, and competitive
16 advantage, urban sprawl, water availability and quality, restrictions
17 on agricultural land use, and conversion to recreational or other uses;

18 (d) Develop model programs and tools, including innovative economic
19 incentives for landowners, to retain agricultural land for agricultural
20 production, with the guidance from the farmland preservation task force
21 created under section 3 of this act;

22 (e) Provide technical assistance to localities as they develop and
23 implement programs, mechanisms, and tools to encourage the retention of
24 agricultural lands;

25 (f) Develop a grant process and an eligibility certification
26 process for localities to receive grants for local programs and tools
27 to retain agricultural lands for agricultural production;

28 (g) Provide analysis and recommendations as to the continued
29 development and implementation of the farm transition program
30 including, but not limited to, recommending:

31 (i) Assistance in the preparation of business plans for the
32 transition of business interests;

33 (ii) Assistance in the facilitation of transfers of existing
34 properties and agricultural operations to interested buyers; and

35 (iii) Research assistance on agricultural, financial, marketing,
36 and other related transition matters;

37 (h) Begin the development of a farm transition program to assist in

1 the transition of farmland and related businesses from one generation
2 to the next, aligning the farm transition program closely with the
3 farmland preservation effort to assure complementary functions; and

4 (i) Serve as a clearinghouse for incentive programs that would
5 consolidate and disseminate information relating to conservation
6 programs that are accessible to landowners and assist owners of
7 agricultural lands to secure financial assistance to implement
8 conservation easements and other projects.

9 NEW SECTION. **Sec. 3.** FARMLAND PRESERVATION TASK FORCE. (1) The
10 farmland preservation task force is established with the following
11 voting members:

12 (a) Six farmer representatives, one from each of six regions
13 delineated by the state conservation commission at least one of whom is
14 a commercial livestock producer, of which at least two representatives
15 shall be under the age of forty-five, appointed by the governor from
16 persons nominated by recognized agricultural organizations;

17 (b) A representative of the state conservation commission,
18 appointed by the chair of the state conservation commission;

19 (c) A representative of the department of agriculture, appointed by
20 the director;

21 (d) A representative of counties in eastern Washington, appointed
22 by the Washington state association of counties;

23 (e) A representative of counties in western Washington, appointed
24 by the Washington state association of counties;

25 (f) Two members of the senate, one from each major political
26 caucus, appointed by the president of the senate;

27 (g) Two members of the house of representatives, one from each
28 major political caucus, appointed by the speaker of the house of
29 representatives;

30 (h) A representative of the office of the governor, appointed by
31 the governor; and

32 (i) A representative of conservation districts, appointed by the
33 state association of conservation districts.

34 (2) The following persons shall be requested to participate as
35 nonvoting members of the farmland preservation task force:

36 (a) A representative of the federal natural resources conservation

1 service with knowledge of federal agricultural land retention programs
2 and funding sources, appointed by the state conservationist; and

3 (b) A person with technical expertise from the department of
4 community, trade, and economic development, appointed by the agency's
5 director.

6 (3) The task force shall meet at least twice a year. The task
7 force shall be staffed by the state conservation commission. The chair
8 of the task force shall be elected for a term of one year by the voting
9 members of the task force.

10 (4) Nonlegislative members of the task force are entitled to be
11 reimbursed for travel expenses in accordance with RCW 43.03.050 and
12 43.03.060 by the state conservation commission. Legislative members of
13 the task force are entitled to be reimbursed for travel expenses in
14 accordance with RCW 44.04.120.

15 (5) This section expires January 1, 2011.

16 **Sec. 4.** RCW 89.08.530 and 2002 c 280 s 2 are each amended to read
17 as follows:

18 (1) The agricultural conservation easements program is created.
19 The state conservation commission shall manage the program and adopt
20 rules as necessary to implement the legislature's intent.

21 (2) The commission shall report to the legislature on an on-going
22 basis regarding potential funding sources for the purchase of
23 agricultural conservation easements under the program and recommend
24 changes to existing funding authorized by the legislature.

25 (3) All funding for the program shall be deposited into the
26 agricultural conservation easements account created in RCW 89.08.540.
27 Expenditures from the account shall be made to local governments and
28 private nonprofits on a match or no match required basis at the
29 discretion of the commission. Moneys in the account may be used to
30 purchase easements in perpetuity or to purchase or lease easements for
31 a fixed term.

32 (4) Easements purchased with money from the agricultural
33 conservation easements account run with the land.

34 **Sec. 5.** RCW 89.08.540 and 2002 c 280 s 3 are each amended to read
35 as follows:

36 (1) The agricultural conservation easements account is created in

1 the custody of the state treasurer. All receipts from legislative
2 appropriations, other sources as directed by the legislature, and
3 gifts, grants, or endowments from public or private sources must be
4 deposited into the account. Expenditures from the account may be used
5 only for the purchase of easements in perpetuity or for the purchase or
6 lease of easements for a fixed term under the agricultural conservation
7 easements program. Only the state conservation commission, or the
8 executive director of the commission on the commission's behalf, may
9 authorize expenditures from the account. The account is subject to
10 allotment procedures under chapter 43.88 RCW, but an appropriation is
11 not required for expenditures.

12 (2) The commission is authorized to receive and expend gifts,
13 grants, or endowments from public or private sources that are made
14 available, in trust or otherwise, for the use and benefit of the
15 agricultural conservation easements program.

16 ***NEW SECTION. Sec. 6. A new section is added to chapter 90.84 RCW**
17 **to read as follows:**

18 ***Agricultural land shall not be acquired by a governmental entity***
19 ***for wetland mitigation purposes through eminent domain.***

**Sec. 6 was vetoed. See message at end of chapter.*

20 ***NEW SECTION. Sec. 7. Section 6 of this act is necessary for the**
21 ***immediate preservation of the public peace, health, or safety, or***
22 ***support of the state government and its existing public institutions,***
23 ***and takes effect immediately.***

**Sec. 7 was vetoed. See message at end of chapter.*

24 **NEW SECTION. Sec. 8. CAPTIONS NOT LAW.** Captions used in this act
25 are not any part of the law.

26 **NEW SECTION. Sec. 9.** Sections 1 through 3 and 8 of this act
27 constitute a new chapter in Title 89 RCW.

Passed by the Senate April 14, 2007.

Passed by the House April 10, 2007.

Approved by the Governor May 8, 2007, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State May 10, 2007.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Sections 6 and 7,
Substitute Senate Bill 5108 entitled:

"AN ACT Relating to farmland preservation."

This bill creates the Office of Farmland Preservation. Sections 6 and 7 are overly broad and do not appear to be related to the underlying bill, as it prohibits the use of eminent domain by governmental entities for wetland mitigation purposes on agricultural land. Furthermore, if enacted, Sections 6 and 7 create unintended and undesirable consequences to numerous transportation and development projects across the state, including the ability to meet state and federal permit requirements to continue dredging of the lower Columbia River.

I understand that the Army Corp of Engineers, state agencies, Port officials, local legislators and Southwest Washington families are meeting to explore alternatives to condemnation for mitigation related to the Columbia Deepening Project. This is a much more productive avenue than the provisions Sections 6 and 7 provide.

For these reasons, I have vetoed Sections 6 and 7 of Substitute Senate Bill 5108.

With the exception of Sections 6 and 7, Substitute Senate Bill No. 5108 is approved."