

# HOUSE BILL REPORT

## HB 1637

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**As Reported by House Committee On:**  
Agriculture & Natural Resources

**Title:** An act relating to forest practices regulations applicable to small forest landowners.

**Brief Description:** Regarding the payment of compensation to small forest landowners participating in the forest riparian easement program.

**Sponsors:** Representatives Orcutt, Blake, Kretz and Herrera.

**Brief History:**

**Committee Activity:**

Agriculture & Natural Resources: 2/3/09, 2/20/09 [DP].

**Brief Summary of Bill**

- Expands the definition of qualifying timber for the Forest Riparian Easement Program (Program) to include certain trees left voluntarily unharvested.
- Directs the Small Forest Landowner Office to determine the compensation to be offered to a landowner for an easement as soon as possible after the landowner's application for the Program.
- Allows compensation from the Program to include the costs of hiring experts for the completion of required studies and reports.
- Provides priority payments from the Program for applicants that are not a local government or non-profit organization.
- Directs that certain appropriations from the Capital Construction Budget will be used for the Program.

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### HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

**Majority Report:** Do pass. Signed by 12 members: Representatives Blake, Chair; Jacks, Vice Chair; Chandler, Ranking Minority Member; Smith, Assistant Ranking Minority Member; Kretz, Liias, McCoy, Nelson, Ormsby, Pearson, Van De Wege and Warnick.

**Staff:** Jason Callahan (786-7117)

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

## **Background:**

### The Forest Riparian Easement Program.

The Forest Riparian Easement Program (Program) is a program managed by the Small Forest Landowner Office (SFLO) in the Department of Natural Resources (DNR) to acquire 50-year easements along riparian and other sensitive aquatic areas from small forest landowners who are willing to sell or donate easements to the state. The DNR can purchase easements from small forest landowners and hold the easements in the name of the state. The easements are restrictive only and allow all landowners to engage in activities except as necessary to protect the riparian functions of the habitat for the term of the easement.

The easements are intended to represent 50 percent of the value of the unharvested trees, plus participation compliance costs. Once a contract from the Program is executed, the DNR is required to reimburse the landowner for the actual costs to establish streamside buffers and timber marking.

The value of the easement is determined by the DNR based on the fair market value of the timber volume covered by the easement. This calculation is made by the DNR after it conducts a timber cruise of the entire proposed easement. The data gathered in the timber cruise is then applied to a stumpage value table to calculate the fair market value. Value is calculated only on qualifying timber. Qualifying timber is timber that is located within a commercially reasonable harvest unit that cannot be harvested because of state limitations.

### Exceptions to Riparian Buffers.

Although the state's Forest Practice Rules have specific restrictions on the amount of harvest allowed near streams and creeks, there is an exemption available for certain landowners. Parcels that are 20 contiguous acres or less are exempt from the modern riparian buffers rule, as long as the owner of the parcel does not own a cumulative total of more than 80 acres. Instead, these landowners can either follow the Forest Practice Rules in place prior to 1999, or work with the DNR to establish an alternative management plan for the riparian portion of the harvest area.

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## **Summary of Bill:**

### Qualifying Timber.

The definition of qualifying timber for the purposes of the Program is expanded. The new definition includes trees located on parcels less than 20 acres in size that are voluntarily left unharvested by the landowner, but only if the trees would have been required to be set aside had the harvest occurred on a larger parcel. Trees left voluntarily unharvested are not considered qualifying timber if the parcel was harvested and converted to a non-forestry use.

The definition of qualifying timber is also expanded to include timber that is left unharvested due to its location on unstable slopes, in a groundwater recharge, or in a riparian area.

### Reimbursing the Forest Riparian Easement Program Applicants.

The SFLO is directed to initiate the process for determining compensation for a Program applicant as soon as possible after an application is received. There is no duty to present an actual offer to a landowner until appropriations allow; however, the SFLO is directed to use any specified funding made available from the state's Capital Construction Budget to complete compensation estimates and to execute Program contracts to landowners who had submitted an application prior to the bill's effective date.

In addition to reimbursement for costs involved with laying out streamside buffers and marking timber, applicants are also entitled to reimbursement for hiring a qualified expert to complete required studies and reports.

Applicants to the Program that are not non-profit organizations or local governments are provided with priority payments under the Program.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Many small forest landowners have lost large portions of their harvestable areas due to Forest Practice Rules buffers. The Legislature made a promise to small forest landowners when the Forest and Fish Law was passed that it would protect their interests, and this bill goes a long way toward keeping that promise.

The DNR cannot provide a timely estimate of the value of unharvested timber because they have to wait until there is funding available before they conduct a timber cruise. However, it is imperative that they conduct an appraisal as soon as possible after harvest before the value of the standing timber is diminished. It is hard to re-create the value of a stand of timber once it has been damaged by wind or ice. Doing early appraisals also allows the Legislature to have a better estimate of future demands on the Capital Budget.

The Program should compensate for the full costs of the small forest landowners. This includes compensating for harvest restrictions on unstable slopes and reimbursing for the considerable costs of collecting geotechnical information. Compensating for harvest buffers that are larger than the regulatory minimums allows small forest landowners to participate in the Program and enjoy federal Endangered Species Act assurances.

The Program would benefit from an increase in funding to clear up the considerable application backlog.

(Opposed) None.

**Persons Testifying:** Representative Orcutt, prime sponsor; Peter Goldmark, Commissioner of Public Lands; and Sherry Fox, Washington Farm Forestry Association.

**Persons Signed In To Testify But Not Testifying:** None.