
SUBSTITUTE HOUSE BILL 1484

State of Washington 61st Legislature 2009 Regular Session

By House Agriculture & Natural Resources (originally sponsored by Representatives Van De Wege, Orcutt, Hurst, McCoy, and Blake)

READ FIRST TIME 02/13/09.

1 AN ACT Relating to habitat open space; and amending RCW 76.09.040.

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

3 **Sec. 1.** RCW 76.09.040 and 2000 c 11 s 3 are each amended to read
4 as follows:

5 (1) Where necessary to accomplish the purposes and policies stated
6 in RCW 76.09.010, and to implement the provisions of this chapter, the
7 board shall adopt forest practices rules pursuant to chapter 34.05 RCW
8 and in accordance with the procedures enumerated in this section that:

9 (a) Establish minimum standards for forest practices;

10 (b) Provide procedures for the voluntary development of resource
11 management plans which may be adopted as an alternative to the minimum
12 standards in (a) of this subsection if the plan is consistent with the
13 purposes and policies stated in RCW 76.09.010 and the plan meets or
14 exceeds the objectives of the minimum standards;

15 (c) Set forth necessary administrative provisions;

16 (d) Establish procedures for the collection and administration of
17 forest practice fees as set forth by this chapter; and

18 (e) Allow for the development of watershed analyses.

1 Forest practices rules pertaining to water quality protection shall
2 be adopted by the board after reaching agreement with the director of
3 the department of ecology or the director's designee on the board with
4 respect thereto. All other forest practices rules shall be adopted by
5 the board.

6 Forest practices rules shall be administered and enforced by either
7 the department or the local governmental entity as provided in this
8 chapter. Such rules shall be adopted and administered so as to give
9 consideration to all purposes and policies set forth in RCW 76.09.010.

10 (2) The board shall prepare proposed forest practices rules. In
11 addition to any forest practices rules relating to water quality
12 protection proposed by the board, the department of ecology may submit
13 to the board proposed forest practices rules relating to water quality
14 protection.

15 Prior to initiating the rule-making process, the proposed rules
16 shall be submitted for review and comments to the department of fish
17 and wildlife and to the counties of the state. After receipt of the
18 proposed forest practices rules, the department of fish and wildlife
19 and the counties of the state shall have thirty days in which to review
20 and submit comments to the board, and to the department of ecology with
21 respect to its proposed rules relating to water quality protection.
22 After the expiration of such thirty day period the board and the
23 department of ecology shall jointly hold one or more hearings on the
24 proposed rules pursuant to chapter 34.05 RCW. At such hearing(s) any
25 county may propose specific forest practices rules relating to problems
26 existing within such county. The board may adopt and the department of
27 ecology may approve such proposals if they find the proposals are
28 consistent with the purposes and policies of this chapter.

29 (3) The board shall establish by rule a program for the acquisition
30 of riparian open space ((~~program that includes acquisition of a fee~~
31 ~~interest in, or at the landowner's option, a conservation easement on)~~
32 and critical habitat for threatened or endangered species as designated
33 by the board. At the landowner's option, acquisition may be of a fee
34 interest or a conservation easement. Lands eligible for acquisition
35 are forest lands within unconfined ((~~avulsing~~)) channel migration zones
36 or forest lands containing critical habitat for threatened or
37 endangered species as designated by the board. Once acquired, these
38 lands may be held and managed by the department, transferred to another

1 state agency, transferred to an appropriate local government agency, or
2 transferred to a private nonprofit nature conservancy corporation, as
3 defined in RCW 64.04.130, in fee or transfer of management obligation.
4 The board shall adopt rules governing the acquisition by the state or
5 donation to the state of such interest in lands including the right of
6 refusal if the lands are subject to unacceptable liabilities. The
7 rules shall include definitions of qualifying lands, priorities for
8 acquisition, and provide for the opportunity to transfer such lands
9 with limited warranties and with a description of boundaries that does
10 not require full surveys where the cost of securing the surveys would
11 be unreasonable in relation to the value of the lands conveyed. The
12 rules shall provide for the management of the lands for ecological
13 protection or fisheries enhancement. Because there are few, if any,
14 comparable sales of forest land within unconfined (~~avulsing~~) channel
15 migration zones, separate from the other lands or assets or within
16 critical habitat for threatened or endangered species as designated by
17 the board, these lands are likely to be extraordinarily difficult to
18 appraise and the cost of a conventional appraisal often would be
19 unreasonable in relation to the value of the land involved. Therefore,
20 for the purposes of voluntary sales under this section, the legislature
21 declares that these lands are presumed to have a value equal to: (a)
22 The acreage in the sale multiplied by the average value of commercial
23 forest land in the region under the land value tables used for property
24 tax purposes under RCW (~~84.33.120~~) 84.33.140; plus (b) the cruised
25 volume of any timber located within the channel migration zone or
26 critical habitat for threatened or endangered species as designated by
27 the board multiplied by the appropriate quality code stumpage value for
28 timber of the same species shown on the appropriate table used for
29 timber harvest excise tax purposes under RCW 84.33.091. For purposes
30 of this section, there shall be an eastside region and a westside
31 region as defined in the forests and fish report as defined in RCW
32 76.09.020.

33 (4) Subject to appropriations sufficient to cover the cost of such
34 an acquisition program and the related costs of administering the
35 program, the department is directed to purchase a fee interest or, at
36 the owner's option, a conservation easement in land that an owner
37 tenders for purchase; provided that such lands have been taxed as
38 forest lands and are located within an unconfined (~~avulsing~~) channel

1 migration zone or contain critical habitat for threatened or endangered
2 species as designated by the board. Lands acquired under this section
3 shall become riparian or habitat open space. These acquisitions shall
4 not be deemed to trigger the compensating tax of chapters 84.33 and
5 84.34 RCW.

6 (5) Instead of offering to sell interests in qualifying lands,
7 owners may elect to donate the interests to the state.

8 (6) Any acquired interest in qualifying lands by the state under
9 this section shall be managed as riparian open space or critical
10 habitat.

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