
Local Government Committee

HB 1630

Brief Description: Prohibiting conversion of agricultural lands to wetlands or fish habitat under the growth management act and the shoreline management act.

Sponsors: Representatives Scott, Taylor and Shea.

Brief Summary of Bill

- Prohibits lands that are designated as agricultural lands under the Growth Management Act from being converted to wetland or fish habitat, or from being subjected to tidal inundation.
- Prohibits agricultural land, as defined in the Shoreline Management Act, from being converted to wetland or fish habitat, or from being subjected to tidal inundation.

Hearing Date: 1/27/15

Staff: Ethan Moreno (786-7386).

Background:

Growth Management Act, Designation of Natural Resource Lands.

The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. Originally enacted in 1990 and 1991, the GMA establishes land use designation and environmental protection requirements for all Washington counties and cities, and a significantly wider array of planning duties for the 29 counties and the cities within that are obligated by mandate or choice to satisfy all planning requirements of the GMA.

Under the GMA, all counties and cities are obligated to designate, where appropriate, environmentally sensitive areas and natural resource lands of long-term commercial significance. These designation requirements apply to:

- agricultural lands that are not already characterized by urban growth and that have long-term significance for the commercial production of food or other agricultural products

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(these designated lands are often referred to as "agricultural lands of long-term commercial significance");

- forest lands that are not already characterized by urban growth and that have long-term significance for the commercial production of timber;
- mineral resource lands that are not already characterized by urban growth and that have long-term significance for the extraction of minerals; and
- environmentally sensitive areas known as "critical areas."

"Agricultural land" is defined in the GMA as land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, certain Christmas trees, finfish in upland hatcheries, or livestock, and that has long-term commercial significance for agricultural production.

Protection of Designated Natural Resource Lands, Related Planning Requirements.

Jurisdictions that fully plan under the GMA must adopt development regulations to assure the conservation of designated natural resource lands of long-term commercial significance.

These same jurisdictions must also adopt comprehensive land use plans to express the general land use policies of the county or city, and development regulations to implement those plans. Comprehensive plans must include specific planning elements, each of which is a subset of the plan. The "Rural Element" of a comprehensive plan must include measures that apply to rural development and protect the rural character of the area by, in part, protecting against conflicts with the use of designated agricultural, forest, and mineral resource lands.

Comprehensive plans and development regulations must be guided by 14 planning goals established in the GMA. Goal number 8 of the GMA specifies that counties and cities must maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. This same goal obligates counties and cities to encourage the conservation of productive forest lands and productive agricultural lands, and discourage incompatible uses.

Shoreline Management Act.

The Shoreline Management Act of 1971 (SMA) governs uses of state shorelines and involves a cooperative regulatory approach between local governments and the state. At the local level, the SMA regulations are developed in mandatory city and county shoreline master programs (SMPs) that regulate land use activities in shoreline areas of the state. At the state level, the Department of Ecology (DOE) is charged with reviewing the locally-adopted SMPs and approving those that comply with statutory provisions and agency guidelines governing their adoption. The goals and policies of an approved SMP are an element of the county or city's comprehensive plan adopted under the GMA.

As defined in the SMA, "agricultural lands" means those specific land areas on which agriculture activities are conducted. "Agricultural activities" is defined in the SMA to mean, in part, agricultural uses and practices including, but not limited to:

- producing, breeding, or increasing agricultural products;
- allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; and

- maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility.

Recent Cases - Growth Management Hearings Board, Snohomish County.

The Growth Management Hearings Board (Board) is the quasi-judicial body charged with hearing and determining petitions related to the implementation of the GMA. The GMA also gives the Board authority to hear and determine petitions related to SMPs and their compliance with applicable SMA provisions.

In 2012, the Snohomish County Farm Bureau (Farm Bureau) challenged an updated and DOE-approved SMP of Snohomish County (*Snohomish County Farm Bureau v. Snohomish County and Washington State Department of Ecology*, Case No. 12-3-0008). Restoration measures authorized in the Snohomish County SMP included dike and levee removals that may result in the inundation of farmlands designated as agricultural lands of long-term commercial significance under the GMA. On March 14, 2013, the Board ruled in favor of Snohomish County and the DOE. In reaching a decision on the case, the Board indicated that the Farm Bureau failed to meet required burden of proof mandates related to the challenged county actions. The Board also noted that its decision outcome "cannot be read as compatible with the GMA resource lands provisions or the Department of Commerce Minimum Guidelines, but it appears to be all that is within the Board's authority under the SMA."

In March 2015 the Board will hear a different case involving Snohomish County and the Farm Bureau. In this case (*Snohomish County Farm Bureau v. Snohomish County*, Case No. 14-3-0013), the Farm Bureau alleges that an interlocal agreement between Snohomish County and Diking and Improvement District No. 5 fails to comply with applicable designation and protection requirements in the GMA by allowing twice-daily saltwater inundations of 400 acres of designated agricultural lands.

Summary of Bill:

Designated agricultural lands may not be converted to wetland or fish habitat, nor may they be subjected to tidal inundation.

"Agricultural land," as defined in the SMA, may not be converted to wetland or fish habitat, nor may it be subjected to tidal inundation.

Appropriation: None.

Fiscal Note: Not requested.

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