

SENATE BILL REPORT

SB 5353

As Reported by Senate Committee On:
Agriculture, Water, Natural Resources & Parks, February 9, 2023
Ways & Means, February 24, 2023

Title: An act relating to the voluntary stewardship program.

Brief Description: Concerning the voluntary stewardship program.

Sponsors: Senators Wagoner, Van De Wege, Dozier, Salomon, Short, Warnick and Wilson, J..

Brief History:

Committee Activity: Agriculture, Water, Natural Resources & Parks: 1/26/23, 2/09/23
[DPS].

Ways & Means: 2/18/23, 2/24/23 [DPS (AWNPN)].

Brief Summary of First Substitute Bill

- Removes the date by which counties must have elected to join the Voluntary Stewardship Program (VSP).
- Provides that a county electing to join the VSP is eligible for a share of new funding made available to implement the program, subject to funding availability from the state.
- Establishes that a county electing to join the VSP is not required to implement the program in a participating watershed until new adequate funding for the program in that watershed is provided to the county.
- Requires the Conservation Commission to determine every two years which watersheds in new participating counties received adequate funding to implement VSP.

SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

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

Majority Report: That Substitute Senate Bill No. 5353 be substituted therefor, and the substitute bill do pass.

Signed by Senators Van De Wege, Chair; Salomon, Vice Chair; Muzzall, Ranking Member; Rolfes, Shewmake, Short, Stanford, Wagoner and Warnick.

Staff: Karen Epps (786-7424)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5353 as recommended by Committee on Agriculture, Water, Natural Resources & Parks be substituted therefor, and the substitute bill do pass.

Signed by Senators Rolfes, Chair; Robinson, Vice Chair, Operating & Revenue; Wilson, L., Ranking Member, Operating; Gildon, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Rivers, Assistant Ranking Member, Capital; Warnick, Assistant Ranking Member, Capital; Billig, Boehnke, Braun, Conway, Dhingra, Hasegawa, Hunt, Keiser, Muzzall, Nguyen, Pedersen, Saldaña, Torres, Van De Wege, Wagoner and Wellman.

Staff: Wendy Brown (786-7359)

Background: Growth Management Act. 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. The GMA also establishes a significantly wider array of planning duties for 28 counties, and the cities within those counties, that are obligated to satisfy all planning requirements of the GMA. These jurisdictions are sometimes referred to as fully planning under the GMA.

All jurisdictions are required by the GMA to satisfy specific designation mandates for natural resource lands and critical areas. In addition to requirements for natural resource lands, all local governments must designate and protect environmentally sensitive critical areas. These protection requirements obligate local governments to adopt development regulations, also known as critical areas ordinances, that meet specified criteria. As defined by statute, critical areas include:

- wetlands;
- aquifer recharge areas;
- fish and wildlife habitat conservation areas;
- frequently flooded areas; and
- geologically hazardous areas.

Growth Management Act—Voluntary Stewardship Program. The Voluntary Stewardship Program (VSP) was created in 2011 and allows participating counties to develop local work plans that use voluntary and incentive-based tools, as an alternative to regulation, to protect

critical areas and agricultural lands. Counties had to opt in to the VSP by early 2012, and 27 counties chose to participate.

Counties participating in the VSP create a work plan approved by the Washington State Conservation Commission (Conservation Commission), and then implement the plan by recruiting local landowners to participate in incentive-based stewardship activities. Counties report their progress to the Conservation Commission. The Conservation Commission is required to determine every two years which watersheds in participating counties received adequate funding to implement the VSP.

If the Conservation Commission determines that a watershed within a participating county has not received adequate funding to implement the VSP, the county must take one of four specified actions:

- develop, adopt, and implement a work plan in the watershed that protects critical areas used for agricultural activities;
- adopt development regulations that have previously been adopted by another local government for the purpose of protecting critical areas used for agricultural activities;
- adopt development regulations certified by the Department of Commerce as protective of critical areas in areas used for agricultural activities; or
- review, and if necessary, update development regulations adopted under the GMA to protect critical areas as they relate to agricultural activities.

Washington State Conservation Commission. The Conservation Commission assists and guides Washington's 47 conservation districts, which are political subdivisions of the state, as they work with local communities to conserve renewable natural resources.

Summary of Bill (First Substitute): The date to join the VSP is removed. A county that elects to join the VSP is eligible for a share of any new funding made available to implement the program, subject to funding availability from the state. A county that elects to join the VSP is not required to implement the program in a participating watershed until new adequate funding for the program in that watershed is provided to the county. The election by a county to participate in VSP may not take effect until new adequate funding for the program in that watershed is provided to the county

The Conservation Commission is required to determine every two years which watersheds in the new participating counties received adequate funding to implement the VSP. If the Conservation Commission determines that a watershed within a new participating county has not received adequate funding to implement the VSP, the county must take one of four specified actions:

- develop, adopt, and implement a work plan in the watershed that protects critical areas used for agricultural activities;
- adopt development regulations that have previously been adopted by another local government for the purpose of protecting critical areas used for agricultural activities;
- adopt development regulations certified by the Department of Commerce as

- protective of critical areas in areas used for agricultural activities; or
- review, and if necessary, update development regulations adopted under the GMA to protect critical areas as they relate to agricultural activities.

EFFECT OF CHANGES MADE BY AGRICULTURE, WATER, NATURAL RESOURCES & PARKS COMMITTEE (First Substitute):

- Clarifies that a new county that elects to participate in VSP is eligible for a share of any new funding available to implement the program.
- Clarifies that a new county that elects to participate in VSP is not required to implement the program in a participating watershed until new adequate funding is provided.
- Provides that the election by a county to participate in VSP may not take effect until new adequate funding for the program in that watershed is provided to the county.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Proposed Substitute (Agriculture, Water, Natural Resources & Parks): *The committee recommended a different version of the bill than what was heard.* PRO: This alternative tool has proven to be useful in counties that opted into VSP for preserving critical habitat and farmland. Joining VSP will not be mandated but will allow counties that did not opt in initially to participate voluntarily. It is important to make sure that when bringing other counties into the program, the program funding for current counties is not being diluted. The program requires no net loss of ecological function as a standard. This program involves managing critical areas on a watershed scale with planning groups setting benchmarks for preservation and enhancement and requires monitoring, reporting, and adaptive management strategies. VSP fosters cooperation between rural landowners, rural agricultural land users, environmentalists, tribes, and regulators. This bill will allow more counties and the farming industries in those counties to take advantage of this program.

OTHER: Twenty-seven counties joined VSP and it took about 4 years to receive funding. The 27 counties have completed their work plan and completed their 5-year review. There are some financial concerns since there may not be enough funding to share with all interested counties. There could a reduction in funding for counties currently in VSP.

Persons Testifying (Agriculture, Water, Natural Resources & Parks): PRO: Senator Keith Wagoner, Prime Sponsor; Paul Jewell, Washington State Association of Counties;

Mark Streuli, Washington Cattlemen's Association and Washington Potato and Onion Association.

OTHER: Ron Shultz, WA State Conservation Commission.

Persons Signed In To Testify But Not Testifying (Agriculture, Water, Natural Resources & Parks): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): PRO: The bill opens up the program to allow other counties to take advantage of this successful program. There is still a question of the indeterminate costs associated with the program and what it means to be adequately funded, and we are working to more clearly define it.

This program provides a locally-driven, cooperative approach within the Growth Management Act that would be an alternative to the long and expensive history of lawsuits. It is the only place in the Growth Management Act that provides a balance to protect critical areas while maintaining the long-term viability of agriculture and reducing the conversion of farmland. The 27 counties who opted in originally just passed their five-year review, and all have succeeded with that review. Public dollars invested into cooperation are better than public dollars invested into litigation.

OTHER: We have no position on having additional counties join the program and would follow the Legislature's direction on supporting those counties as they elect to join the VSP program. We want to ensure that the existing funding for the counties in VSP is retained, and additional funding for the new counties is added to meet their needs. The amendments made in the Senate policy committee help address that issue, which shifts our position to be more supportive.

Persons Testifying (Ways & Means): PRO: Senator Keith Wagoner, Prime Sponsor; Dan Wood, WA State Dairy Federation.

OTHER: Ron Shultz, WA State Conservation Commission.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.