

HOUSE BILL REPORT

ESB 6549

As Reported by House Committee On:
Agriculture & Natural Resources

Title: An act relating to creating demonstration projects for preserving agricultural land and public infrastructure in flood plains.

Brief Description: Creating demonstration projects for preserving agricultural land and public infrastructure in flood plains.

Sponsors: Senators Hobbs, Hatfield and Pearson.

Brief History:

Committee Activity:

Agriculture & Natural Resources: 2/25/14, 2/26/14 [DPA].

**Brief Summary of Engrossed Bill
(As Amended by Committee)**

- Directs the State Conservation Commission to convene a panel of experts to evaluate various river management strategies and techniques, and to make recommendations to the Legislature by October 31, 2015.
- Includes factors to be considered by the expertise panel for evaluating river management strategies and techniques.
- Requires an opinion to be provided about the appropriateness and feasibility of conducting river management demonstration projects, including a potential outline of one or more demonstration projects complete with minimum recommendations.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: Do pass as amended. Signed by 13 members: Representatives Blake, Chair; Lytton, Vice Chair; Buys, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Chandler, Haigh, Hurst, Kretz, Orcutt, Schmick, Stanford, Van De Wege and Warnick.

Minority Report: Do not pass. Signed by 1 member: Representative Dunshee.

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.

Staff: Megan Mulvihill (786-7291) and Jason Callahan (786-7117).

Background:

Floodplain Management.

A floodplain is an area of relatively level land bordering a river, stream, or lake that becomes inundated occasionally. In Washington, the Department of Ecology (DOE) is required to establish minimum state requirements for floodplain management that are at least equivalent to the minimum standards set forth by the National Flood Insurance Program (NFIP). Local governments may expand upon the minimum standards by adopting Comprehensive Flood Management Plans which identify flood-prone areas, a system for flood control and protection, and establish floodplain land use regulations and construction restrictions.

The Legislature has a variety of floodplain management projects being completed throughout the state. In the 2013-15 Capital Budget, the Legislature devoted \$50 million for flood control grants, of which \$33 million was allocated to specific floodplain restoration projects, \$11.25 million was allocated to competitive flood hazard reduction project grants, and the remaining dollars went to local flood control projects. Preference for a competitive grant is given to those with Comprehensive Flood Management Plans, and the grant receiver must match grant with 20 percent of the grant with non-state dollars.

State Waters Management.

If a project is taking place on state-owned aquatic lands, the Department of Natural Resources (DNR) needs to provide authorization. In order to receive authorization, other agencies such as the Washington Department of Fish and Wildlife (WDFW) or the DOE may need to authorize permits.

The WDFW is responsible for providing Hydraulic Project Approval (HPA) permits for the construction of hydraulic projects that use, divert, obstruct, or change the natural bed or flow of state waters. The WDFW may issue a five-year maintenance permit agreement for a county with flood damage repair and reduction activities as long as those activities are consistent with Comprehensive Flood Control Management Plans. These maintenance permits allow work on public or private property for activities such as removal of sandbars and debris, channel maintenance, and other flood damage repair and reduction activities without having to receive a separate permit for each activity.

The Legislature has also vested specific authority for the DNR to sell valuable resources from state lands. The DNR sells a variety of resources from state lands, including timber, stone, gravel, and geoducks. When a valuable material is removed from state-owned aquatic lands, the proceeds of the sale are split evenly between the DNR's aquatic lands program and the Aquatic Lands Enhancement Account.

Fraser River Sediment Management Program.

The Fraser River is the longest river in British Columbia (BC), Canada, starting from the Rocky Mountains and draining into the Pacific Ocean just south of Vancouver, BC. Emergency Management BC is in charge of managing the Fraser River Sediment Management Program along with the Department of Fisheries and Oceans Canada, the BC Ministry of Forests, Lands and Natural Resource Operations, Transport Canada, and the BC

Ministry of Environment. Project sites are selected based on a variety of factors such as water flow, fish use, adjacent erosion, and minimal environmental impacts. Sediment equal to the influx or disposition of gravel is removed to maintain optimal river depth, flow, and to protect against flooding.

Summary of Amended Bill:

The State Conservation Commission (SCC) is required to take the administrative lead in a process to evaluate the effectiveness, legal barriers, and costs of various river management strategies and techniques to accomplish the following goals:

- protection of agricultural lands;
- restoration or enhancement of fish runs; and
- protection of public infrastructure and recreational access.

An expertise panel consisting of the following stakeholders must decide which river management strategies and techniques to review:

- the Department of Agriculture;
- the DOE;
- the DNR;
- the WDFW;
- local and statewide agricultural organizations;
- land conservation organizations;
- local governments with interest or experience in the use of river management techniques to provide for flood control; and
- any other perspective deemed insightful by the Executive Director of the SCC.

In addition, all interested Indian tribes must have the opportunity to send representatives to participate on the expertise panel or to serve as co-administrative leads along with the SCC.

In evaluating the river management strategies and techniques, an opinion regarding the appropriateness and feasibility of conducting river management demonstration projects must be provided. If demonstration projects are found to be appropriate and feasible, then a proposed, detailed outline must be provided to the Legislature for authorization. The outline must include recommendations about the demonstration projects such as where and the time of year they should occur, steps that can be taken to reduce turbidity, timelines and benchmarks, the disposition of any potentially removed gravel, the most efficient way to obtain the necessary permits and approvals, the expected results, and the proposed funding for the demonstration projects.

The expertise panel must examine the river management techniques being studied or implemented in other jurisdictions or currently underway in Washington, including a review of the Fraser River in British Columbia, Canada.

The findings of the expertise panel must be reported back to the Legislature by October 31, 2015.

Amended Bill Compared to Engrossed Bill:

The striking amendment changes the structure of the stakeholder group in the underlying bill from being jointly staffed by the departments to directing the SCC to be the administrative lead. The striking amendment creates an expertise panel which is directed to review and evaluate potential river management strategies and techniques rather than only sediment management strategies and techniques. The expertise panel is not required to take action to implement two demonstration projects as the underlying bill required of the stakeholder group, but is directed to provide an opinion regarding the appropriateness and feasibility of demonstration projects. If the expertise panel decides that demonstration projects are appropriate and feasible, the expertise panel must provide a detailed outline complete with recommendations on how to precede with the demonstration projects to the Legislature for approval.

Appropriation: None.

Fiscal Note: Requested on February 26, 2014.

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

Staff Summary of Public Testimony:

(In support) Citizens are concerned about increased sediment and flooding risks in rivers. For years, Washingtonians have talked about how serious the problem of sediment buildup is, but since it is easier to do nothing when no one agrees, there has been no action. This is not a solution.

Washington can look to the Fraser River where sediment management has occurred while at the same time protecting fish runs and habitat. At the Fraser River, there was gravel removal above the water level which reduced turbidity, provided revenue from the gravel, increased fish runs, and they had a person on site to make sure fish and habitat were protected. The stakeholder group should not look at the specifics of what the Fraser River project did, but at the process of how they got there. The process used at Fraser River could be duplicated in Washington in the two demonstration projects. This bill brings everyone to the table to work this problem out. It also requires a report back to the Legislature, and it establishes action. There have been numerous studies on the Chehalis River with no action; therefore, the action provided for in this bill is exciting.

The issue of increasing gravel and sediment buildup is a continuing problem as it creates blockage, erosion, threatens public infrastructure, and blocks public access to recreation. Agricultural fields begin to disappear as the seasons go by, and the mature trees that cool the river are being lost. There are gravel bars in the middle of the rivers that are higher than the dikes. In addition, private property is ruined. Even fish enhancement projects get swept down the river.

(With concerns) The goals laid out in the bill are laudable, the narrow approach of the bill is favored, the direction to look at the Fraser River is fine, and the stakeholder process is supported as well; however, there are concerns about the action that the bill directs stakeholders to take. The departments would prefer that the study informs the action to be taken rather than having the bill direct action before conclusions can be made. This is putting the cart before the horse. These are great objectives and approaches, but the assumption that sediment management or dredging is the answer is concerning.

Another concern is the lack of funding associated with the bill. Besides the implementation process, walking into a pre-determined outcome without funding could affect the success of the project. The capacity for the projects was not considered either.

The solution needs to be balanced with everyone's interests, and it should not be a fish or people argument, but a fish and people approach. A work group should be able to evaluate the variety of techniques in order to meet the goals of the bill. The report due at the end of the year could include a feasibility study of the pilot projects before moving forward.

(Opposed) None.

Persons Testifying: (In support) Senator Hobbs, prime sponsor; Senator Hatfield; Dan Wood, Dairy Federation of Washington; Terry Willis, Grays Harbor/Pacific County Farm Bureau; Ed Husmann, Snohomish County Farm Bureau; Tom Davis, Washington Farm Bureau; and Carol Russo.

(With concerns) Bill Robinson, The Nature Conservancy; Jeff Davis, Washington Department of Fish and Wildlife; Tom Clingman, Washington Department of Ecology; Megan Duffy, Washington Department of Natural Resources; and Mark Streuli, Washington Department of Agriculture.

Persons Signed In To Testify But Not Testifying: None.