

Voluntary Stewardship Program

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Presented by:

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Background

- 2006 – Initiative 933 addressed taking of agricultural lands due to regulations. Fails by 60%.
- 2007 - Legislature charged the Ruckelshaus Center to examine the conflict between protecting agricultural land and protecting critical areas in local ordinances adopted under the GMA.
- A three-year moratorium was placed on the requirement for local governments to update their critical area ordinances as they specifically applied to agricultural activities.
- 2010 – Moratorium extended by legislature expires on July 1, 2011.
- ESHB 1886 is the result of the facilitated stakeholder discussions.

County Goals in Discussions

- Protect critical areas and viability of agriculture
- Get out of constant, expensive and divisive litigation
- Retain local control – grass roots planning
- Build on existing programs, plans, and processes
- Get the State to pay for a state mandated program
- Achieve better & strategic environmental outcomes

What the New Program Does

- The voluntary stewardship program is created at the Conservation Commission.
- The program is an alternative approach for counties to protect critical areas on agricultural lands.
- Counties are given two options:
 - Opt-in to the voluntary stewardship program, or
 - Continue under existing law in GMA to protect critical areas on agricultural lands.
- Counties will have 6 months from the effective date to select if they want to opt-in to the program.

Must opt-in by January 22, 2012

NOT Opting-in to the Program

- A county NOT opting-in to the program will be subject to existing GMA requirements to designate and protect critical areas on agricultural lands.
- Current moratorium expires.
- Subject to existing challenges and appeals under GMA.

Opting-in to the Program

- A county has until January 22, 2012 to adopt an ordinance or resolution opting-in to the program.
- Before adopting the resolution, the county must:
 - Confer with tribes, environmental and agricultural interests; and
 - Provide notice to property owners and other affected and interested individuals, tribes, government agencies, businesses, school districts, and organizations.
- The ordinance or resolution must:
 - Elect to have the county participate in the program;
 - Identify the watersheds that will participate in the program; and
 - Nominate watersheds for consideration by the Commission as state priority watersheds.

Opting-in to the Program

- In identifying priority watersheds, a county must consider:
 - The role of farming within the watershed including the number and acreage, economic value, and risk of conversion of farmland;
 - Importance of salmonid resources in the watershed;
 - An evaluation of the biological diversity of wildlife species and habitats;
 - Presence of leadership within the watershed that is representative and inclusive of the interests in the watershed;
 - Integration of regional watershed strategies, including the availability of a data and scientific review structure related to all types of critical areas;
 - Presence of a local watershed group willing and capable of overseeing a successful program; and
 - Overall likelihood of completing a successful program.

Opting-in to the Program

- The program applies to all unincorporated property upon which agricultural activities occur within a participating watershed.
- For those areas of a county NOT included in the designated priority watershed, the county must implement existing GMA critical areas requirements.
- “Watershed” means a WRIA, salmon recovery planning area, or subbasin as determined by a county.
- Within 60 days of funds being available to a county to implement the program, the county must designate a watershed group and entity to administer funds for each watershed.
- The county must confer with tribes and stakeholders before designating the watershed group.

Opting-in to the Program

- If a county has not elected to participate in the program all unincorporated areas; or
- If the county has elected to participate in the program, for any watershed not participating in the program; THEN
- Within two years after the effective date of the legislation (July 22, 2013) a county must review and, if necessary, revise development regulations adopted under this chapter (Title 36.70A RCW) to protect critical areas as they specifically apply to critical areas. UNLESS.....

Opting-in to the Program

- The requirement to review and if necessary revise within two years does NOT apply if a county completed a review of its development regulations as required by 36.70A.130 during the period July 1, 2003 to June 30, 2007. If so, then follow the existing requirements of 36.70A.130
- After reviewing and revising within the two year timeline, the timelines in 36.70A.130 will apply.

Withdrawing from the Program

- A county that has opted in may withdraw from the program by adopting an ordinance or resolution to that effect.
- May withdraw at the end of three years, five years, or eight years after receipt of funding, or any time after 10 years from receiving funding.
- Within 18 months after withdrawing, the county must review and, if necessary, revise its development regulations as they apply to agricultural activities in that watershed.

Funding

- Counties opting-in are eligible for a share of the funding made available to implement the program, subject to funding being available from the state.
- Not required to implement the program in the participating watershed until adequate funding for the program in that watershed is provided to the county.
- Current funding estimates for program development and administration:
 - \$150,000 per county in year 1
 - \$100,000 per county in years 2 & 3
 - \$120,000 per county in years 4 - 6

Designation of Watershed Group

- Within 60 days of the initial receipt of funds, a county must designate a watershed group and an entity to administer funds for each watershed for which funding has been provided.
- A county must confer with tribes and interested stakeholders before designating or establishing a watershed group.

Designation of Watershed Group

- The watershed group must include a broad representation of key watershed stakeholders and, at a minimum, representatives of agricultural and environmental groups, and tribes that agree to participate.
- County should encourage existing lead entities, watershed planning units, or other integrating organizations to serve as the watershed group.
- A county may designate itself, a tribe, or another entity to coordinate the local watershed group.

Role of Watershed Group

- The designated watershed group must develop a work plan to protect critical areas while maintaining the viability of agriculture in the watershed.
- The work plan must include goals and benchmarks for the protection and enhancement of critical areas.
- In developing and implementing the work plan, the watershed group must:
 - a) Review and incorporate applicable water quality, watershed management, farmland protection, and species recovery data and plans;
 - b) Seek input from tribes, agencies, and stakeholders;
 - c) Develop goals for participation by agricultural operators necessary to meet the protection and enhancement benchmarks of the work plan;
 - d) Ensure outreach and technical assistance is provided to agricultural operators in the watershed;
 - e) Create measurable benchmarks that, within 10 years after receipt of funding, are designed to result in the protection and enhancement of critical areas functions and values through voluntary, incentive-based measures;
 - f) Designate the entity that will provide technical assistance;

Role of Watershed Group

- [continued] In developing and implementing the work plan, the watershed group must:
 - g) Work with the entity providing technical assistance to ensure individual stewardship plans contribute to the goals and benchmarks of the work plan;
 - h) Incorporate into the work plan existing development regulations relied upon to achieve the goals and benchmarks for protection;
 - i) Establish baseline monitoring for: (i) participation and implementation of the voluntary stewardship plans and projects; (ii) stewardship activities; and (iii) the effects on critical areas and agriculture relevant to the protection and enhancement benchmarks developed for the watershed;
 - j) Conduct periodic evaluations, institute adaptive management, and provide a written report of the status of plans and accomplishments to the county and the Commission within 60 days after the end of each biennium;
 - k) Assist state agencies in their monitoring programs; and
 - l) Satisfy any other reporting requirements of the program.

Landowner Outreach and Assistance

- Counties and local watershed groups designate an organization to perform outreach and technical assistance to individual landowners.
- Development of individual farm stewardship plans to protect and when necessary restore critical areas.
- Resources and incentives to landowner to implement farm stewardship plans to protect and restore critical areas.

Approval of Work Plan

- The work plan is submitted to the director of the SCC for approval.
- The director submits the work plan to a technical panel for review. Panel has 45 days to review and assess the plan.
- The technical panel is to review the work plan and assess whether the plan, in conjunction with other plans and regulations, will protect critical areas while maintaining and enhancing the viability of agriculture in the watershed.
- If the technical panel determines the plan will accomplish its goals, the SCC director must approve the plan.
- If the technical panel determines the plan will not accomplish its goals, the SCC director must advise the watershed group the reasons for the disapproval.

Technical Panel

"Technical panel" means the directors or director designees of the following agencies:

- WDFW
- WSDA
- Ecology
- WSCC

Meeting Goals of Work Plan

- Within 5 years of receipt of funds to implement the work plan, the watershed group must report to the SCC director and the county whether it has met the work plan's protection and enhancement goals and benchmarks.
 1. If the watershed group determines the protection goals and benchmarks have been met, and the director concurs, the watershed group shall continue to implement the work plan. The director also may not concur with this determination, in which case must consult with the advisory committee.
 2. If the watershed group determines the protection goals and benchmarks have not been met, it must propose and submit to the director an adaptive management plan to achieve the goals and benchmarks that were not met. If the director does not approve the adaptive management plan, the watershed must develop and adopt a plan approved by the department of Commerce.
 3. If the watershed group determines the enhancement goals and benchmarks have not been met, the watershed group must determine what additional voluntary actions are needed to meet the benchmarks, identify the funding necessary to implement these actions, and implement these actions when funding is provided.

Statewide Advisory Committee

Director required to appoint and, in certain circumstances, consult with a statewide advisory committee.

Consisting of two persons representing :

- county government
- agricultural organizations
- environmental organizations

The commission, in conjunction with the governor's office, shall also invite participation by two representatives of tribal governments.

Consequences

- If a work plan is not approved by the director, or
- If the work plan's goals and benchmarks for protection have not been met, or
- The Commission determines any county or state agency does not receive adequate funding to implement a program in a watershed, or
- The Commission determines the watershed has not received adequate funding to implement the program.
- Then a county must, within 18 months, do one of the following;

Consequences

- Develop, adopt, and implement a watershed work plan approved by Commerce that meets specified critical areas and agricultural requirements. Commerce must consult with other state agencies before approving or disapproving the plan and its decision is subject to appeal before the Growth Management Hearings Board (Board); or
- Adopt qualifying development regulations previously adopted under the GMA by another jurisdiction for the purpose of protecting critical areas in areas used for agricultural activities. The "secondary" adoption of these regulations is subject to appeal before the Board; or
- Adopt development regulations certified by Commerce as protective of critical areas in areas used for agricultural activities. The Commerce's certification decision is subject to appeal before the Board; or
- Review and, if necessary, revise its development regulations to protect critical areas as they relate to agricultural activities.

Relationship to GMA

Legislation will add new sections to RCW 36.70A, the GMA statute.

If the participating watershed is achieving the benchmarks and goals for the protection of critical area functions and values, the county is not required to update development regulations as they apply to agricultural activities in the county.

If the participating watershed is NOT achieving the benchmarks and goals for protection, then the county must review and if necessary revise development regulations in the area consistent with the GMA.

Enhanced Enforcement

Following approval of a work plan,
a county or watershed group may request a state or
federal agency
to focus existing enforcement authority in that
participating watershed,
if the action will facilitate progress toward achieving
work plan protection goals and benchmarks.

Impact to Landowners

A work plan may require landowners to develop individual stewardship plans which identify actions and projects necessary for the protection of critical areas on agricultural lands.

From the bill:

- (1) Agricultural operators implementing an individual stewardship plan consistent with a work plan are presumed to be working toward the protection and enhancement of critical areas.
- (2) If the watershed group determines that additional or different practices are needed to achieve the work plan's goals and benchmarks, the agricultural operator may not be required to implement those practices but may choose to implement the revised practices on a voluntary basis and is eligible for funding to revise the practices.

Impact to Landowners

A landowner may withdraw from the program and is not required to implement any voluntary measures after the expiration of an applicable contract.

However, the landowner may still be subject to any enforcement actions for failure to protect the critical areas on the landowner's property.

“Nothing in this act may be construed to:

- (1) Interfere with or supplant the ability of any agricultural operator to work cooperatively with a conservation district or participate in state or federal conservation programs;
- (2) Require an agricultural operator to discontinue agricultural activities legally existing before the effective date of this section;
- (3) Prohibit the voluntary sale or leasing of land for conservation purposes, either in fee or as an easement;
- (4) Grant counties or state agencies additional authority to regulate critical areas on lands used for agricultural activities; and
- (5) Limit the authority of a state agency, local government, or landowner to carry out its obligations under any other federal, state, or local law.”

Voluntary Stewardship Program

Questions?

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