
HOUSE BILL 1136

State of Washington

61st Legislature

2009 Regular Session

By Representatives McCoy and Chase

Read first time 01/14/09. Referred to Committee on Local Government & Housing.

1 AN ACT Relating to incorporating considerations of impacts to plant
2 species identified by the natural heritage program in local government
3 permitting processes; amending RCW 79.70.030; adding a new section to
4 chapter 35.21 RCW; adding a new section to chapter 35A.21 RCW; and
5 adding a new section to chapter 36.01 RCW.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 35.21 RCW
8 to read as follows:

9 (1) City and town permitting processes must consider impacts to
10 plant species identified by the natural heritage program established
11 under RCW 79.70.030 that may reside on a proposed project site.
12 Consideration of impacts includes, but is not limited to, consulting
13 with the natural heritage program and associated data banks of the
14 department of natural resources to determine, or attempt to determine,
15 whether a plant species identified by the program is located on the
16 proposed project site.

17 (2) Cities and towns may not issue permits for project proposals
18 affecting or likely to affect plant species identified by the natural

1 heritage program without prior development and implementation of an
2 appropriate mitigation process for the affected or likely to be
3 affected plants.

4 (3) For purposes of this section, "an appropriate mitigation
5 process" means a process ensuring that: (a) There is no net loss of an
6 affected plant species; and (b) plant transplanting, when transplanting
7 is practicable, involves movements of minimal distances.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 35A.21 RCW
9 to read as follows:

10 (1) Code city permitting processes must consider impacts to plant
11 species identified by the natural heritage program established under
12 RCW 79.70.030 that may reside on a proposed project site.
13 Consideration of impacts includes, but is not limited to, consulting
14 with the natural heritage program and associated data banks of the
15 department of natural resources to determine, or attempt to determine,
16 whether a plant species identified by the program is located on the
17 proposed project site.

18 (2) Code cities may not issue permits for project proposals
19 affecting or likely to affect plant species identified by the natural
20 heritage program without prior development and implementation of an
21 appropriate mitigation process for the affected or likely to be
22 affected plants.

23 (3) For purposes of this section, "an appropriate mitigation
24 process" means a process ensuring that: (a) There is no net loss of an
25 affected plant species; and (b) plant transplanting, when transplanting
26 is practicable, involves movements of minimal distances.

27 NEW SECTION. **Sec. 3.** A new section is added to chapter 36.01 RCW
28 to read as follows:

29 (1) County permitting processes must consider impacts to plant
30 species identified by the natural heritage program established under
31 RCW 79.70.030 that may reside on a proposed project site.
32 Consideration of impacts includes, but is not limited to, consulting
33 with the natural heritage program and associated data banks of the
34 department of natural resources to determine, or attempt to determine,
35 whether a plant species identified by the program is located on the
36 proposed project site.

1 (2) Counties may not issue permits for project proposals affecting
2 or likely to affect plant species identified by the natural heritage
3 program without prior development and implementation of an appropriate
4 mitigation process for the affected or likely to be affected plants.

5 (3) For purposes of this section, "an appropriate mitigation
6 process" means a process ensuring that: (a) There is no net loss of an
7 affected plant species; and (b) plant transplanting, when transplanting
8 is practicable, involves movements of minimal distances.

9 **Sec. 4.** RCW 79.70.030 and 2003 c 334 s 549 are each amended to
10 read as follows:

11 In order to set aside, preserve, and protect natural areas within
12 the state, the department is authorized, in addition to any other
13 powers, to:

14 (1) Establish the criteria for selection, acquisition, management,
15 protection, and use of such natural areas, including:

16 (a) Limiting public access to natural area preserves consistent
17 with the purposes of this chapter. Where appropriate, and on a case-
18 by-case basis, a buffer zone with an increased low level of public
19 access may be created around the environmentally sensitive areas;

20 (b) Developing a management plan for each designated natural area
21 preserve. The plan must identify the significant resources to be
22 conserved consistent with the purposes of this chapter and identify the
23 areas with potential for low-impact public and environmental
24 educational uses. The plan must specify the types of management
25 activities and public uses that are permitted, consistent with the
26 purposes of this chapter. The department must make the plans available
27 for review and comment by the public, and state, tribal, and local
28 agencies, prior to final approval;

29 (2) Cooperate or contract with any federal, state, or local
30 governmental agency, private organizations, or individuals in carrying
31 out the purpose of this chapter;

32 (3) Consistent with the plan, acquire by gift, devise, purchase,
33 grant, dedication, or means other than eminent domain, the fee or any
34 lesser right or interest in real property which shall be held and
35 managed as a natural area;

36 (4) Acquire by gift, devise, grant, or donation any personal

1 property to be used in the acquisition and/or management of natural
2 areas;

3 (5) Inventory existing public, state, and private lands in
4 cooperation with the council to assess possible natural areas to be
5 preserved within the state;

6 (6)(a) Maintain a natural heritage program to provide assistance in
7 the selection and nomination of areas containing natural heritage
8 resources for registration or dedication. The program shall maintain
9 a classification of natural heritage resources, an inventory of their
10 locations, and a data bank for such information.

11 (b) The department shall cooperate with the department of fish and
12 wildlife in the selection and nomination of areas from the data bank
13 that relate to critical wildlife habitats. The department shall also
14 cooperate with local governments requesting consultation services under
15 sections 1 through 3 of this act. Information from the data bank shall
16 be made available to public and private agencies and individuals for
17 environmental assessment (~~and~~), proprietary land management purposes,
18 and permitting processes under sections 1 through 3 of this act. Usage
19 of the classification, inventory, or data bank of natural heritage
20 resources for any purpose inconsistent with the natural heritage
21 program is not authorized;

22 (7) Prepare a natural heritage plan which shall govern the natural
23 heritage program in the conduct of activities to create and manage a
24 system of natural areas that includes natural resources conservation
25 areas, and may include areas designated under the research natural area
26 program on federal lands in the state;

27 (a) The plan shall list the natural heritage resources to be
28 considered for registration and shall provide criteria for the
29 selection and approval of natural areas under this chapter;

30 (b) The department shall provide opportunities for input, comment,
31 and review to the public, other public agencies, and private groups
32 with special interests in natural heritage resources during preparation
33 of the plan;

34 (c) Upon approval by the council and adoption by the department,
35 the plan shall be updated and submitted biennially to the appropriate
36 committees of the legislature for their information and review. The
37 plan shall take effect ninety days after the adjournment of the

1 legislative session in which it is submitted unless the reviewing
2 committees suggest changes or reject the plan; and

3 (8) Maintain a state register of natural areas containing
4 significant natural heritage resources to be called the Washington
5 register of natural area preserves. Selection of natural areas for
6 registration shall be in accordance with criteria listed in the natural
7 heritage plan and accomplished through voluntary agreement between the
8 owner of the natural area and the department. No privately owned lands
9 may be proposed to the council for registration without prior notice to
10 the owner or registered without voluntary consent of the owner. No
11 state or local governmental agency may require such consent as a
12 condition of any permit or approval of or settlement of any civil or
13 criminal proceeding or to penalize any landowner in any way for failure
14 to give, or for withdrawal of, such consent.

15 (a) The department shall adopt rules as authorized by RCW 43.12.065
16 and 79.70.030(1) and chapter 34.05 RCW relating to voluntary natural
17 area registration.

18 (b) After approval by the council, the department may place sites
19 onto the register or remove sites from the register.

20 (c) The responsibility for management of registered natural area
21 preserves shall be with the preserve owner. A voluntary management
22 agreement may be developed between the department and the owners of the
23 sites on the register.

24 (d) Any public agency may register lands under provisions of this
25 chapter.

--- END ---