



LegisLetter

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Activities of the Legislature affecting farmers and ranchers in Washington state

February 5, 2009

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2009 Legislative Days were a Big Success!

Washington Farm Bureau Legislative Days event was held Feb. 4-5 in Olympia. In addition to legislative updates provided by Farm Bureau's government relations team, the following speakers shared their thoughts on current policy issues:

- Commissioner of Public Lands Peter Goldmark
- Speaker of the House Frank Chopp
- Representative Kelli Linville, Chair of the Ways and Means Committee
- Representative Brian Blake
- Representative Dave Upthegrove
- Representative Joel Kretz, Deputy Minority Leader

On Wednesday, State FFA officers and FFA members from chapters around the state were treated to a tour of the Capitol building by Jerri Honeyford. The dessert auction at the luncheon was very profitable for the Washington State Farm Bureau PAC. Thanks to all of you brought (and bought) the desserts!

At Wednesday night's banquet, Gina Bull accepted Farm Bureau's Legislator of the Year award on behalf of her father, former Representative Bill Grant. Rep. Grant, who was a major advocate for the Ag community, passed away last month and is sincerely missed by all of us.

On the final day of the event, members met with their legislators and then gathered back at the Washington Farm Bureau to discuss their meetings. In all, nearly 200 Washington Farm Bureau members from around the state were in attendance, making this one of the best-attended Leg Days in recent years. A survey will be e-mailed shortly to those of you who attended...so be on the lookout for it.

ACTION ALERT

Hearing tomorrow (Feb. 6) on anti-AHP bills

Calls to legislators needed!

Friday, February 6, the House Health Care & Wellness Committee will hold a hearing on two bills, HB 1712 and 1714, which would strip Association Health Plans (AHPs) of the flexibility they need to remain competitive.

A recent study showed that AHPs are on average 11% less expensive than standard plans in the small group market. At a time when many employers are struggling just to keep their doors open, higher insurance rates will force more employers to cancel coverage for themselves and their employees.

WFB members, especially those enrolled in *FB Healthcare*, are urged to call the following members of the House Health Care & Wellness Committee and ask them to "LEAVE OUR ASSOCIATION PLANS ALONE!" Phone calls today and next week would be very helpful.

ACTION ITEM: Please contact House Health Care & Wellness Committee members to ask that they oppose HB 1712 and 1714. Call the legislative hotline at (800) 562-6000 or contact committee members directly at:

Cody, Eileen (D-Seattle), Chair	(360) 786-7978
Driscoll, John (D-Spokane), Vice Chair	(360) 786-7962
Bailey, Barbara (R-Oak Harbor)	(360) 786-7914
Campbell, Tom (R-Spanaway)	(360) 786-7912
Clibborn, Judy (D-Mercer Island)	(360) 786-7926
Ericksen, Doug (R-Bellingham)	(360) 786-7980
Green, Tami (D-Lakewood)	(360) 786-7958
Hinkle, Bill (R-Cle Elum)	(360) 786-7808
Kelley, Troy (D-Tacoma)	(360) 786-7890
Moeller, Jim (D-Vancouver)	(360) 786-7872
Morrell, Dawn (D-Puyallup)	(360) 786-7968
Pedersen, Jamie (D-Seattle)	(360) 786-7826

Water Bill Hearings in the Senate Next Week

The Senate Environment, Water & Energy committee will hear 3 water bills plus continue the hearing on the climate change bill next week.

The details are:

Senate Hearing Rm 4 J.A. Cherberg Building 2/10/09 at 10:00 am

Public Hearing:

1. [SB 5114](#) - Eliminating the partial relinquishment of water rights.
2. [SB 5299](#) - Concerning water resource management on the Columbia and Snake rivers.
3. [SB 5692](#) - Regarding sufficient cause for the nonuse of water.
4. [SB 5533](#) - Regarding the adjudication of water rights.
5. [SB 5118](#) - Modifying the definition of biofuel.
6. [SB 5735](#) - Reducing greenhouse gas emissions.

(1) Stock Water

A number of bills have been introduced that would limit or otherwise define the stock water provision of the exempt well statute.

Action Item: Ask legislators to protect the exemption to ensure that rural landowners will be able to continue to raise locally grown livestock.

(2) Relinquishment

Many bills have been introduced related to repealing or modifying the scope of the relinquishment (use-it-or-lose-it) provision of the water code.

Action Item: Legislators should modify or repeal the relinquishment statute so that water right holders will have water right certainty and thus the right incentive to conserve water, making more water available for other uses.

(3) Climate Change - Cap and Trade

The Governor has proposed legislation to limit (cap) emissions of “greenhouse” gases and create a “market” to trade credits between businesses like has been done with sulfur dioxide. The program would include restrictions/fees on each gallon of petroleum fuel used.

Action Item: Legislators should oppose any cap and trade legislation this session because: (1) no legislation is needed this session; (2) we need to wait to see what the US government chooses to do on the subject; (3) such a measure would cripple our fragile economy; (4) we need proof that such a program will actually help us deal with natural climate variability- not just create a new taxing source and bureaucracy.

(4) Retro Programs

We anticipate legislation that would regulate the contract between associations like Farm Bureau and their members, and would prevent Farm Bureau from using its portion of the refund in the ways directed by our board of directors.

Action Item: Retro refunds are the property of the employer or group of employers that earned them. They should be free to spend them as they see fit. Legislators should defeat any attempt to muzzle free speech by regulating our relationship with members.

(5) Essential Worker Program

Employers need a legal workforce. Despite record numbers of unemployed workers, there are still not enough seasonal workers, and employers have no way to know whether these workers are eligible to work here.

Action Item: The state should assist employers with seasonal, peak need, or project related labor needs, working pro-actively with Congress and, if necessary, foreign governments, to help provide an adequate number of legal workers. Local workers should be given preference for these jobs.

(6) Unemployment Insurance Federal Conformity

The federal government has determined that Washington’s U/I system does not conform with federal law. The changes must be fair to seasonal workers and employers.

Action Item: A provision in Washington law that assists agricultural employers (four quarter charging) is being removed. It must be replaced with a provision that will keep seasonal employers competitive.

(7) Minimum Wage

The Washington minimum wage is the highest in the nation and it jumped 6% in January, from \$8.07 to \$8.55 per hour. Mandating raises in these tough economic times will prevent employers from hiring first time workers, ultimately causing the recession to last longer in Washington state than in other areas.

Action Item: Legislators should freeze the minimum wage until our unemployment rate begins declining, and set the annual cap on minimum wage growth at four percent.

(8) Growth Management Costs

Many of the goals of the GMA remain unfulfilled promises, while some requirements create great costs to local government and affected land owners. Millions of dollars have been spent arguing over terms and details (such as “best available science”) in the GMA.

Action Item: The state should not add any new goals or mandates to the GMA. HB 1490, requiring local governments to address greenhouse gases, is undefined and unattainable at the local level, and will result in millions more of public and private dollars wasted on court battles. HB 1490 should not be passed.

(9) Agricultural Specialty Building Permit Costs

Neighboring states and some Washington counties either exempt agricultural buildings from construction or remodeling permit fees or set a low cap on those fees. If Washington is to remain a leading agricultural state, we must maintain or replace decaying infrastructure and we must remain competitive in all input costs.

Action Item: The legislature should pass SB 5120, limiting the permitting costs to \$75 for agricultural buildings not used by the public.

(10) Association Health Plans

Two bills, HB 1712 and 1714, have been introduced which would strip Association Health Plans (AHPs) of the flexibility they need to remain competitive. More than 600,000 people are covered by AHPs, including in our own FB Healthcare program. Forcing them into the large or small group insurance pool jeopardizes affordability and will do nothing to solve problems in those other segments of the health insurance market.

Action Item: Legislators should oppose HB 1712 and 1714.

(11) Tax increases

Democrat leaders have refused to rule out tax increases to balance the state budget for the 2009-2011 biennium. Increasing taxes will make an already bad economy worse.

Action Item: Legislators should protect jobs and the economy by opposing tax increases.

For more information contact John Stuhlmiller, Director of Government Relations at (360) 357-9975 or by email at jstuhlmiller@wsfb.com



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ISSUES IN BRIEF

Stock Watering

Owners of livestock have three legal options of providing water for their stock. A rancher may water stock directly from a surface water body, seek a water right permit, or rely upon a permit exempt well. It is the later source that has become extremely contentious.

BACKGROUND:

When the 1917 surface water code was adopted, it was noted that the right of stock to drink in riparian areas was to be protected, but all future diversions of surface water would require a permit from the state. In 1945 the ground water code was adopted, which required all future wells to be permitted. However, a permit exemption was provided for a number of uses, including the watering of stock.

As a result of much debate over the ground water permit exemption for stock watering, legislators asked for clarification from the state attorney general in 2005. The formal opinion indicated the stock watering provision under the ground water code was not limited. Unfortunately, the opinion did not quell the contention over this provision and many have argued about the unlimited nature of the provision as well as the definition of “stock watering purposes.”

ISSUE:

Things heated up dramatically during the latter months of 2008 as a proposal for a 30,000 head feedlot became public. Critics of the unlimited exemption grabbed this proposal as the need for reform. Ecology issued a pre-enforcement letter to the project proponent indicating the agency opposed the project due to reliance on the exempt well. In the intervening months, at the urging of Farm Bureau and others, Ecology has helped the proponent find a right that can be transferred to meet the needs of the feedlot.

In spite of this outcome, the project sparked intense debate and resulted in several bills that are now before the legislature in an attempt to “settle” this issue. **HB 1091** would limit the stock watering to 5,000 gallons per day retroactively, so that all those watering stock with such wells would be cut back to 5,000 gallons per day as of July 31, 2009. **HB 1509** would define stock watering purposes to include all ancillary uses such as dust control and wash water. **HB 1489 and SB 5578** would limit the exemption to 15,000 gallons per day with no requirements, or up to 350 acre feet per year if the user develops a record of examination for the withdrawal and an impairment analysis.

ACTION:

Urge legislators to seek a solution outside of changing the law. There is no crisis needing immediate resolution. The system worked under the scenario of the feedlot, and it will work in the future. We need to carefully weigh any potential statutory changes in light of what harm it could do to livestock operations across the state.



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ISSUES IN BRIEF

Relinquishment Reform

The policy of statutory water right relinquishment or use-it-or-lose-it is one of the highest profile public policy failures in water policy. It is at the convergence of a number of key concerns including encouraging efficient use of water, certainty for water right holders, and meeting instream flow needs.

BACKGROUND:

Prior to 1917, state water usage operated on the doctrine of prior appropriation in which a person wanting to put water to beneficial use simply posted their usage on a tree (in later years it was posted at the county courthouse). In 1917, the legislature adopted the surface water code, followed in 1945 by the ground water code. These acts required potential users of water to first obtain a permit from the Department of Ecology. The state (as the whole Western United States) has relied on the common law notion of abandonment to ensure that no hoarding of water takes place. To enforce abandonment, the state must prove that a water right holder intended to stop using a water right.

In 1967, state law was modified to include statutory abandonment called relinquishment. The relinquishment standard is much stiffer than the common law notion, because the burden of proof shifted from the state to the water right holder. This statute now requires water right holders to fully exercise their water right at least once every five years or risk losing the unused portion of the right. If relinquishment action is taken against a water right holder, the water right holder has to overcome a rebuttable presumption of non-use by showing full use of the right for every five year period dating back to when the permit was issued or 1967 if the right was issued prior to 1967.

The net effect of the relinquishment policy has been to create uncertainty and a recordkeeping nightmare for water right holders and would be purchasers of water rights. With a virtually unlimited look back period it can be very difficult to prove usage. This uncertainty means water right holders are unwilling to explore transfers and actually encourages users to apply their full right instead of seeking to conserve water, to avoid losing the unused portion.

ISSUE:

A whole host of bills have been introduced on relinquishment this session. Bills include: elimination of partial relinquishment (**HB1268, SB 5114**); broadening of the crop rotation exception to relinquishment (**HB 1269**); directing Ecology to “liberally construe” the list of exceptions to relinquishment (**HB 1267**); allowing some relief if best management practices are employed (**HB 1334, SB 5299**); and excusing non-use for water rights in the transfer line (**HB 1266, SB 5692**).

While these measures offer differing degrees of certainty to water right holders, only eliminating partial relinquishment or at least limiting the period Ecology can look back to apply the relinquishment standard will provide meaningful relief. No “look back” bill has been introduced this session.

ACTION:

Urge legislators to support passage of relinquishment reform as a means to provide water right holders with certainty and encourage the efficient use of water.



HB 1896/SB 5831 Essential Worker Pilot Legislation
A Legal and Stable Workforce for Washington's Employers

Background

Immigration, and the issue of immigration reform, divides our nation. On one side are those who believe that comprehensive reform is necessary, taking into account the need for workers and the plight of unauthorized immigrants; and on the other side, those who believe that immigration reform can best be accomplished with a focus on enforcement against unauthorized immigrants and the places where they work.

Immigration is a federal issue. But the failure of Congress to act, over the better part of two decades, has forced states to respond. Decisions impacting immigration confront state legislatures every year. They appear most often in debates over benefits and services that should be provided to different classes of residents, in areas as diverse as the granting of drivers' licenses to the awarding of workers' compensation benefits.

Oklahoma and Arizona have passed enforcement only laws that require employers to enroll in the voluntary federal e-verify program. These laws have created a chilling effect on employers and workers alike. Colorado, on the other hand, has enacted legislation asking the state to assist employers in obtaining a legal workforce, similar to our proposal.

Finally, a group in our state launched an initiative campaign seeking to emulate the enforcement only approach, but it has thus far not obtained the necessary signatures to qualify for the ballot.

Essential Worker Legislation

The Washington essential worker program would **make our state a leader advocating for comprehensive immigration reform**. It would direct our state to work with the federal government in this regard, and would:

- Allow employers with the need for seasonal, peak need, or project related workers to request assistance from the state in hiring legal workers;
- Direct the state to request appropriate waivers from the federal government and negotiate directly with other countries to provide these workers;
- Provide a preference for the local workforce for jobs requested in the program;
- Charge employers an appropriate fee for services provided by the state; and,
- Provide workers designated as "essential workers" with training programs such as English language classes.



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ISSUES IN BRIEF

Growth Management

Growth management decision can interfere with existing and ongoing agricultural activities and can negatively impact the value of affected lands. Undefined goals and mandates have resulted in tens of millions of public and private dollars spent in needless litigation.

BACKGROUND:

All counties and cities must protect critical areas under the GMA and must protect shorelines under the SMA (Shoreline Management Act). “Fully planning” counties and their cities must also meet the goals and adopt mandated countywide planning policies. Among the GMA goals are: affordable housing, efficient transportation, economic development, protecting the environment, protecting property rights, and enhancing agriculture.

Local governments “shall not require modification or limit agricultural activities” under the SMA. Through July 1, 2010, “counties and cities may not amend or adopt critical area ordinances under (the GMA) as they specifically apply to agricultural activities.”

In past years, there has been overlap and ambiguity regarding the jurisdiction of the SMA and GMA. The state Supreme Court provided clarity in July, 2008 in the *Anacortes* case when it ruled that within the 200-foot SMA jurisdiction, critical areas are governed exclusively by the SMA – not the GMA – effective 2003 when an “SMA-GMA integration” bill was passed by the legislature.

ACTION:

Washington Farm Bureau *opposes* **HB 1653** and **SB 5726**, which would reverse the *Anacortes* ruling and delay the distinction between SMA and GMA jurisdiction until *after* Dept. of Ecology approves local SMA plans. This could effectively set aside the agricultural exemption from SMA.

Washington Farm Bureau *opposes* **HB 1490** and **SB 5687**, which would add reducing greenhouse gases to the goals and countywide planning policy mandates of the GMA. The terms and standards are undefined and will result in regulation of agricultural activities and tens of millions of additional dollars wasted on litigation.

Washington Farm Bureau *supports* **HB 1827**, which would prohibit state agencies and local governments from requiring private property owners to pay for or locate signs for the public benefit without providing compensation to those owners for the taking of the land. WFB also *supports* **HB 1828**, which would prohibit development regulations under the GMA from restricting the removal of danger trees and clearing vegetation for the purpose of preventing harm to people or structures.



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ISSUES IN BRIEF

Open Space Taxation

Recent actions by some county assessor offices have created uncertainty in the open space tax program, resulting in horse boarding, Christmas tree, early-stage vineyards, and livestock operations being notified that they are not considered agricultural operations eligible for the program.

BACKGROUND:

The Open Space Taxation Act, enacted in 1970, allows property owners to have their open space, farm and agricultural, and timber lands valued at their current use rather than at their highest and best use. The Act states that it is in the best interest of the state to maintain, preserve, conserve, and otherwise continue in existence adequate open space lands for the production of food, fiber, and forest crops and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the state and its citizens. (*Washington State Department of Revenue*)

ISSUE:

After many months of assessors notifying farmers that they no longer qualify for the open space program, the DOR held stakeholder meetings in November in Olympia and Yakima. Hundreds of people attended each meeting. DOR issued an emergency rule in November, clarifying that it is **not** necessary to breed animals on site in order to qualify. Horse boarding was conditionally qualified in the emergency rule. Other agricultural operations' remain eligibility remain unresolved.

Several bills are now before the legislature in an attempt to "clarify" this issue. **HB 1232 & SB 5817** would lock in the emergency rule on the breeding issue and clarify that horse boarding operations are eligible agriculture. Amendments are in the works to address early-stage plantings like Christmas trees and vineyards. **HB 1733** clarifies the eligibility of equine operations. **HB 1815 & SB 5792** focus specifically on the eligibility of Christmas tree operations. **SB 5424** eases the interest rate and penalties when land is removed from the open space program. **HB 1979** clarifies the eligibility of standing crops that have not yet produced revenue (such as Christmas trees, vineyards, etc.).

All of these bills are supported by Washington Farm Bureau policy.

ACTION:

Ask legislators to support these bills to protect agriculture's eligibility for the open space tax program. The recent application of the open space program was not consistent with the current and historical nature of agriculture. The open space program is as needed today as it was at its inception in 1971 and the goal – to protect agricultural and open space lands – remains valid today.



WASHINGTON FARM BUREAU

The Facts on Climate Change



WFB Policy on Climate Change

We believe that climate change is a natural occurrence. Focusing on greenhouse gas emissions, especially carbon, does not address the impacts of natural climate variability, nor does it recognize the fact that carbon dioxide is a key component to agricultural productivity and efforts to provide sufficient food to feed the world and reduce world hunger.

We also find that the political debate has shifted to finding ways to adapt to potential impacts of climate variability. In any adaptation efforts directed by the state, it is essential that agricultural practices be recognized as a benefit.

The Issue:

Government action is moving Washington toward capping the emission of greenhouse gases to stop the climate from changing and save our citizens from the impacts of extreme weather events (floods and droughts).



Before Acting, We Must Ask Ourselves ...

Has the **data** used to support natural climate variability **been adequately investigated**?

Have we **evaluated the consequences** of the currently proposed policies on people and the economy?

What is a **“green” job**? Farmers produce and cultivate plants at a high rate – isn’t that green? Yet the state does not think so. Why?

Is it better to **invest in infrastructure and technological improvements** to minimize use of fuel and provide protection from the effects of natural climate variability **or** develop a **costly government program** to change the climate?

Did You Know.....

Contrary to popular belief, **trends do not show** out of control **temperature increases**.

The fact is, it was **7 degrees warmer** in the **13th century** when Greenland was “green.”

Climate variability has occurred in a **predictable** 1500 year cycle that coincides with solar activity.

More than **31,000 scientists** (at least 620 of which are from Washington) **do not agree** that climate variability is **human caused**.

Models predicting climate change scenarios are **not accurate** for **current** weather patterns and thus **future** patterns are **suspect**.

Plants “breathe” carbon dioxide (CO₂), removing it from the atmosphere and replacing it with water and oxygen.

Higher levels of CO₂ actually **increase plant growth** which **enhances agriculture’s ability to feed** the world and eliminate hunger.

Reducing greenhouse gases to preindustrial levels **will not preclude** sudden climate shifts as evidenced by thousands of years of data.

The **technology** to reduce CO₂ levels **by 50% does not exist** and would be **cost prohibitive** to develop.

To achieve a **50% reduction** in carbon dioxide **emissions from vehicles** the average person in the U.S. would be **limited to 3 gallons** of gasoline per week.

Shutting down all coal-fired power plants in the United States would only **reduce U.S. emissions by 33%**, while **eliminating 50%** of all **generating capacity**.

What Are Scientists Saying?

“The polar bear story teaches us three things: we hear **vastly exaggerated and emotional claims** that are simply **not supported by data**.....**polar bears are not the only story**...there are many species that will do better in warmer climates and **our worry makes us focus on the wrong solutions**.....if we want to save more polar bears, more would be saved by not shooting them than by stopping global warming.”

Bjorn Lomborg, *Cool It*; pp. 8-9

"The present global warming is hardly unique. It is arriving **pretty much "on schedule."**

Dissidents Against Dogma, Alexander Cockburn.

What About the Costs?

"Adopting policies ahead of science and at the risk of pushing business offshore, however, could be costly."

Oregon Gov. Ted Kulongoski at a 2008 energy summit.

"Now is not the time to be talking about tax increases."

Governor Gregoire during the 2008 Washington governors debate.

What Should We Do?

Public policy makers must take full stock of the issues, **count the costs**, and assess any real benefits before taking action. Policy must be based on **fact not fear**.

For more information contact John Stuhlmiller, Director of Government Relations for the Washington Farm Bureau (360) 357-9975 or jstuhlmiller@wsfb.com.