



WASHINGTON FARM BUREAU
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LegisLetter

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Activities of the Legislature affecting farmers and ranchers in Washington state

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Get Retro Bill: Partisan and Anti-Business

Every session, there are a few purely partisan, anti-business bills introduced. This year Substitute Senate Bill 6035 ([SSB 6035](#)), Concerning retrospective rating plans, is such a bill. Introduced by Senate Democrats under the guise of a "Sunshine bill," [SSB 6035](#) has no other purpose than to muzzle the business community. Conversely, Democratic leaders in the House have shown no interest in pursuing this punitive legislation.

[SSB 6035](#), sponsored by Sen. Jeannie Kohl-Welles (D-Seattle), would regulate how organizations like Farm Bureau spend refunds that they earn from the state retrospective rating (retro) program. The bill states that refunds earned by Farm Bureau could only be spent on workers' compensation claims management, workplace safety, or administration of a retro program. Farm Bureau would not be allowed to spend Retro/Safety returns on labor and employment advice for members, legislative or regulatory advocacy, or a host of other activities that members have asked our organization to undertake.

Bill Zimmerman, a farmer from Vancouver, testified in opposition to the bill, stating, "We count on Farm Bureau to advocate on our behalf, and this bill seeks to muzzle that advocacy. I think that Farm Bureau members and its board -- not the Legislature -- should decide how our organization spends its funds."

Farm Bureau does not spend any Retro/Safety funds on candidate campaigns. Years ago, Farm Bureau formed a Political Action Committee (PAC) that is legally separate from the organization and receives no funding from organization dues or refunds earned by the Farm Bureau Retro/Safety program. This was done because the Farm Bureau board decided that it is in the best interest of the organization and its members to draw a bright line between advocacy on behalf of farmers and ranchers, and political activities. No law or government regulation was needed then, and none is needed now.

Farm Bureau offers a vibrant Retro/Safety program and uses the revenues from that program for claims management, workplace safety, employer services like human resources advice, and our legislative and regulatory advocacy programs. Members and the board, not the Legislature, should determine how an organization's funds are spent.

Farm Bureau members should contact their state Senator and urge a "NO" vote when the bill comes before the Senate next week. For more information about the bill with an online form to send to your senator, please visit: <http://capwiz.com/wsfb/state/main/?state=WA>.

Anti-Business Bill Would Not Correct L&I Errors

According to bill proponents, [SSB 6035](#) is also designed to correct an error disclosed by L&I last week that resulted in an overpayment to businesses that participate in retro programs. When L&I disclosed the problem, the Agency stated that it had already corrected it by charging retro groups. There was simply no need for a bill to fix this problem.

Immediately after the 2008 election, newspapers warned that the governor and some Democrats would sponsor a bill in retribution for organizations who endorsed Sen. Rossi. In an editorial entitled "Sore Winners," *The (Tacoma) News Tribune* urged Democrats to abandon this partisan approach and instead work together with Republicans on real issues. The advice was not taken by some Senate Democrats.

Sen. Janéa Holmquist (R-Moses Lake), the ranking minority member of the Labor, Commerce and Consumer Protection Committee, is perturbed by the bill and the anti-business approach of some Senate Democrats. Holmquist sponsored a bill ([Senate Bill 5464](#)) that would end the misappropriation of approximately \$50 million each year of workers' comp premiums. These funds are currently being used to fund minimum wage inspectors, union programs, and other programs that have nothing to do with workers' comp. The Holmquist bill was not even granted a hearing in its committee.

[SSB 6035](#) is one of several partisan, anti-business bills being advocated by Senate Democrats. Other anti-business bills that sailed out of committee include [SB 5446](#), a bill that would prohibit employers from discussing the subject of labor unions with employees, and several bills that would raid a current surplus in the unemployment insurance trust fund.

ACTION ITEM

Contact your Senator today and urge him or her to vote "NO" on [SSB 6035](#) should it come to the Senate for consideration.

Log on to www.wsfb.com and at the top of the front page you'll see more information about what you can do. Simply follow the links and the website will walk you through everything from how to contact your Senator to how to write a letter to the editor of your paper.

Please take two minutes today to protect your business and your employees from this harmful legislation. Visit www.wsfb.com or go directly to <http://capwiz.com/wsfb/state/main/?state=WA>.

Everything you need to make your voice heard is on the website -- all you need to do is take two minutes to make a difference.

SMA-GMA Legislation Still Alive

While the Senate Environment, Water and Energy Committee declined to pass [SB 5726](#) sponsored by Sen. Adam Kline (D-Seattle), the counterpart [HB 1653](#) sponsored by Rep. Geoff Simpson (D-Covington), has advanced to Rules Committee.

[HB 1653](#) would interfere with the protection of agriculture activities within the shoreline area. Agricultural activities are currently protected from limits or prohibitions by the Shoreline Management Act (SMA), but [HB 1653](#) would subject agriculture to regulation under the Growth Management Act (GMA) for an indefinite period of time in counties and cities across the state.

The bill is not needed, as the state Supreme Court said last July -- in the *Anacortes* case -- that critical areas in the SMA jurisdiction are regulated exclusively under the SMA and all other critical areas are regulated under the GMA. The distinction is clear and statewide.

But now the Department of Ecology wants to regulate agriculture and other activities under the GMA until they give their approval to local governments' updates of their shoreline master plans.

Ecology lost that argument in the Supreme Court; now they are trying to gain that control through legislation that disingenuously claims it is to "clarify" the situation.

The language in the SMA is clear: Regulations "shall not require modification of or limit agricultural activities occurring on agricultural lands." (RCW 90.58.065). Now, Ecology wants to achieve those limits through the GMA instead.

Meanwhile, discussions continue at the Ruckelshaus Center, a joint UW -- WSU policy resolution center, on critical areas and agriculture. The parties agreed there would be no changes to the CAO rules during the Ruckelshaus Center negotiations.

Washington Farm Bureau has asked the Legislature to put down this bill because it is misleading, violates the spirit of the discussions at the Ruckelshaus Center, and poses harm to agriculture across our state.

Open Space Legislation Advances

Legislation continues to move to address current concerns affecting agriculture in the Open Space Tax Program.

[HB 1232](#), sponsored by Rep. Bill Hinkle (R-Cle Elum), has passed the House Agriculture Committee and awaits a hearing in the House Finance Committee. This comprehensive bill protects operations that breed off-site (like calves, pigs, and chicks), protects the eligibility of commercial equine operations, protects the eligibility of delayed-return crops (Christmas trees, grapes, etc.) that require substantial investment and time to plant and a delay of years for

harvest. A committee amendment from Rep. Judy Warnick (R-Ellensburg) provided clarifying language to improve the bill.

[SB 5817](#), sponsored by Sen. Randi Becker (R-Enumclaw), passed out of the Senate Agricultural, Rural and Economic Development Committee and has been referred to the Ways & Means Committee. Like [HB 1232](#), this is a comprehensive approach that has a broad definition of agriculture to address breeding, delayed-return crops, and equestrian issues. [SB 5817](#) also includes language to hold harmless owners whose land is removed from the program through no fault of their own (see [SB 5424](#) below).

[SB 5424](#), sponsored by Sen. Linda Evans Parlette (R-Wenatchee), has passed out of the Senate Ways & Means Committee. This bill will reduce the interest paid when removing property from open space if it has been in the program for 10 years. In addition, if the property has been removed through no fault of the owner (such as the discovery of an assessor office error in original approval of entry into the program), there would be no interest charged on back taxes.

[SB 5792](#), sponsored by Sen. Tim Sheldon (D-Potlatch), is specific to the eligibility of Christmas trees on parcels greater than 5 acres and less than 20 acres. For Christmas trees grown in methods consistent with normal methods for Christmas trees, and with an investment of more than \$100 per acre, the landowner is eligible for open space treatment while waiting for the trees to mature to harvest.

Washington Farm Bureau supports all of these bills, encouraging the passage of both the commodity-specific legislation and the passage of the comprehensive legislation in [SB 5817](#) and [HB 1232](#).

Washington voters approved a Constitutional amendment in 1968 to allow the Legislature to approve a current use valuation program for encouraging the preservation of agriculture and other open space lands. The Legislature originally passed the program in 1970 and it has been amended periodically.

In 2008, counties around the state began removing from the program agricultural operations that involved the common practice of off-site breeding of livestock, equestrian use, Christmas trees, and other agricultural activities.

The Department of Revenue adopted emergency rules in late December 2008. Those rules addressed some of these issues, but left some unresolved.

Regional Property Rights Group Sponsors Capitol Rally

The Pierce County chapter of Citizens' Alliance for Property Rights (CAPR) has announced a noon rally on the North Capitol steps March 2.

The event will feature remarks from Steve Hammond, state president for CAPR; Bob Williams of the Evergreen Freedom Foundation; and Rick Forcier of the Christian Coalition.

The contact person for the event is listed as Wendy Birnbaum, president of the Pierce County CAPR. Her phone number is (253) 677-0612. Their website is listed as www.mylandnotyours.com.

In a previous announcement by CAPR, Washington Farm Bureau was erroneously listed as a sponsor and presenter for the March 2 property rights rally. While protecting property rights is a priority for Washington Farm Bureau, we are not affiliated with this event.

B&O Tax on Farms Remains Alive in Committee

So far, there has been no committee action on Legislation to add the B&O tax to the cost of many farmers.

[SB 5911](#), sponsored by Sen. Craig Pridemore (D-Vancouver), would make farms with gross receipts of \$200,000 or more subject to the state's business and occupations (B&O) tax.

The B&O tax rate for wholesaling activities is currently 0.484 percent of sales.

The bill would also repeal the existing sales tax exemption for farm equipment auctions conducted on the farm.

The bill remains in the Senate Ways & Means Committee, but has not yet been scheduled for a hearing by Sen. Margarita Prentice (D-Seattle), the committee chair.

Please email [Dan Wood](#) with the dollar impact this would have on you and your farm. To do so, simply multiply your gross revenue by 0.484 percent. (e.g. \$750,000 x .00484 = \$3,630). Having examples will help us tell Legislators about the specific impact to farms and make the issue all the more real for them. We will keep the source of the information confidential.

Water Bill Roundup

As we pass the first cutoff, there are still a number of water bills in the mix. While there are no active bills that would eliminate the negative impacts of partial relinquishment, there are a few rays of hope for water right holders.

[SHB 1571](#), Regarding the adjudication of water rights, is sponsored by Rep. Brian Blake (D-Aberdeen) and the Senate companion [SSB 5533](#), is sponsored by Sen. Phil Rockefeller (D-Bainbridge Island). As introduced, we opposed these measures, but after considerable work with the sponsors and the Department of Ecology these bills have merit and should be advanced. The key feature that would be helpful to water right holders is that water disputes between a limited number of water right holders could be dealt with through a "limited adjudication process" which would be a more effective and less costly way to get certainty than the present option of having to sue a neighbor(s) who are deemed to be impairing a senior right. We will continue to work this measure to ensure that the bottom line will be a better adjudication process.

[SSB 5583](#), Improving the effectiveness of water banking, is sponsored by Sen. Chris Marr (D-Spokane). This measure was introduced in a form that was not supported by many water users, but through careful work, it now offers some useful adjustments to the trust water program that should enable the trust program to operate more effectively. Guarded support of this measure is warranted at this point.

[SHB 1580](#), Establishing a local water management pilot program in one qualified jurisdiction (the Walla Walla bill), is sponsored by Sen. Lynn Kessler (D-Hoquiam) and its companion [SSB](#)

[5647](#), is sponsored by Sen. Brian Hatfield (D-Raymond). The Walla Walla watershed bill will provide some innovative water resource management tools to assist that watershed in meeting demands for instream and out of stream uses. We support the measure.

[SHB 1334](#), Concerning water resource management on the Columbia and Snake Rivers, is sponsored by Rep. Brian Blake (D-Aberdeen). This measure would provide incentives for efficient use of water in the Columbia and Snake River basins. Details need to be worked out on this measure, but it also warrants consideration because it would provide water users more incentives to save water.

[SHB 1489](#), Related to stock watering, is sponsored by Rep. Brian Blake (D-Aberdeen). The bill advanced from committee with “place holder” language related to the exempt well provisions and the watering of stock. This is an extremely controversial issue that must be carefully approached. At this point we do not support passage of this bill because many issues have not been addressed. We believe Ecology should work with stakeholders to resolve this matter, either this session or during the interim.

[SSB 6077](#), Related to donations to the trust water program and water resource data management, sponsored by Sen. Phil Rockefeller (D-Bainbridge Island), is a measure that came out of a stakeholder process involving water right holders and the environmental community. As crafted, the measure would allow a simple notice process for water right holders who choose to reduce water use to place that reduced water temporarily into the trust program. Notice would be a ‘post card’ sent to Ecology indicating the user wants to reduce water (a more simple process to access the existing trust water donation process). Much like e-filing of income taxes, this would be a convenience to water right holders. The program is already available under current law, but the application process is much more complex than a post card. Water put into trust through the notice provision would be protected from relinquishment by a current statutory exception. Additionally, the measure includes a data collection piece that will continue to be worked as the bill moves through the process. We support passage of this measure.

2009 Legislative Hot List

(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. The only active bill is [HB 1489](#) -- a title only bill.

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

(2) Water Right 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. The only active bill is [SB 6077](#) -- related to start/stop cards to enter the trust water program.

Action Item: Legislators should modify or repeal the relinquishment statute to provide water right holders certainty and thus an incentive to conserve water, making more water available for other uses. Lacking comprehensive reform, support [SB 6077](#).

(3) Climate Change - Cap and Trade

Two Governor request bills ([HB 1819/SB 5735](#)) were introduced 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 U.S. 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

Farm Bureau represents a broad range of farmers, both large and small, by offering a low membership fee and programs that appeal to a wide range of members. Retro/Safety is one of these programs. It provides Farm Bureau members a financial incentive if they can achieve safer workplaces, but imposes a penalty on programs whose overall safety is lower than the norm.

The Legislature directed a study of retro programs that is due out this summer. The study uncovered a mistake by L&I in running the program, and the mistake has been corrected.

If the Farm Bureau program earns a refund, that refund is the property of the organization and its members. Under the guise of a “Sunshine Bill,” [SB 6035](#) would prevent Farm Bureau from using its portion of the refund in the manner approved by our board of directors.

Action Item: Legislators should oppose [SSB 6035](#). The audits proposed in [SSB 6035](#) should wait until the retro study is complete. The real focus of this bill is to weaken organizations like Farm Bureau and the family farmers that Farm Bureau represents. This politically motivated attempt to muzzle the business community must be stopped.

(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. [HB 1896/SB 5831](#) are not moving, but [HB 2241](#), a title only substitute, may move.

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. 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.

Action Item: Legislators should support [SB 5963/HB 2204](#) and oppose efforts by the labor unions to add cost and new benefits to this bill.

(7) Growth Management Impacts to Agriculture

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. [HB 1490/SB 5687](#) would re-open this path to litigation. Additionally, [HB 1653/SB 5726](#) would interfere with agricultural protections under the SMA when the shoreline area is covered by a critical area ordinance under the GMA.

Action Item: Legislators should oppose [HB 1490/SB 5687](#) and not add any new goals or mandates to the GMA. Requiring local governments to address greenhouse gases is undefined and unattainable and will result in more dollars wasted on court battles. Legislators should also oppose [HB 1653/SB 5726](#) to preserve existing agricultural protections under the SMA and maintain existing clarity between the SMA and GMA.

(8) 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.

(9) Association Health Plans

By a party-line vote, majority Democrats on the House Health Care & Wellness Committee approved a substitute to [HB 1714](#) that would require insurance carriers to provide detailed, proprietary information about Association Health Plans (AHP) to the Office of the Insurance Commissioner far in excess of what is needed to analyze differences between the AHP and small group health insurance markets. Exposing proprietary business information to competitors and regulators jeopardizes the viability of association plans and does nothing to address problems in the small group market.

Action Item: Legislators should oppose [SHB 1714](#).

(10) 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 [SB 5911](#) -- the B&O tax on agriculture, or other tax increases.

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

Bills of Interest

Please note that since some bills have “died” there are two versions of bill tracking posted on our website. Since there is always a chance a bill may be “revived” we judiciously keep a copy of bill tracking as it was before cutoff, in addition to the active bill tracking list. Both are available at: <http://www.wsfb.com/issues/legisletter>.

Information Resources

Washington Farm Bureau: www.wsfb.com
Legislative Information: www.leg.wa.gov

Governor's Bill Actions: www.governor.wa.gov
Legislative Hotline: (800) 562-6000