

Proposed Substitute House Bill 1078

H-0898.1/23

By Representative Duerr

Brief summary of original version of HB 1078:

- Requires any city or town that has or that enacts an urban forestry management ordinance to allow for any tree protection or management obligations imposed by the ordinance to be satisfied by the use of a tree bank.
- Requires the Department of Natural Resources to establish guidelines for the use of tree banks, including guidelines to ensure that banks are located in areas in which they will have the most significant impact, and to provide scientific guidance for the use of tree banks.

Proposed Substitute House Bill (H-0898.1/23) compared to the original bill:

- Adds language to the intent section.
- Removes requirements that cities, code cities, and towns with ordinances promoting or regulating urban forestry management or for the care of trees include an option allowing for the requirements of the ordinance to be satisfied through the use of a tree bank.
- Adds a definition of tree bank that includes programs providing for the payment of a fee-in-lieu of physically planting trees.
- Removes requirement that the Department of Natural Resources (Department) establish guidelines for the incorporation of tree banks within communities' urban forestry ordinances and instead requires that the Department establish optional model urban forestry ordinances and recommendations.
- Requires the Department to deliver technical assistance and planning support to local jurisdictions that decide to utilize the model ordinances and recommendations.
- Requires that the model ordinances and recommendations establish criteria for including tree bank programs in urban forestry ordinances, provide a tree selection and siting tool for use by local jurisdictions, and provide best practices for maintaining and growing newly planted trees within a tree bank.
- Adds areas suffering from adverse environmental factors including, but not limited to, erosion, flooding, and air or water pollution to areas in which tree banks must be located under the model ordinances and recommendations.
- Removes the requirement that the Department's model ordinance and recommendations include how to effectively support management plan outcomes.

1 AN ACT Relating to urban forest management ordinances; amending
2 RCW 76.15.010 and 76.15.110; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that there is
5 currently a shortage of housing, particularly affordable housing,
6 within the state. The legislature finds one of the most efficient and
7 sustainable ways to address this shortage is through the development
8 of housing options within existing urban growth areas. The
9 legislature also finds that tree canopy and green space are necessary
10 for the health and wellness of urban growth area residents.

11 In regulating the removal of trees during development, however,
12 city regulations may limit or prevent development opportunities that
13 would provide needed additional housing, while not adequately
14 considering how to balance the positive impacts of additional housing
15 with the negative impacts of a reduction in tree canopy. At the same
16 time, the critical need for growing the tree canopy throughout the
17 city may go unaddressed. Therefore, it is the intent of the
18 legislature to provide guidance to cities wishing to create tree bank
19 programs in which the removal of trees in one area can be offset by
20 the addition of trees to one or more areas in which the need for
21 trees is most acute, such as areas that have historically suffered

1 from environmental inequality and health disparities, areas subject
2 to the urban heat island effect, and areas in which the trees will
3 most benefit salmon and orca recovery efforts. It is the intent of
4 the legislature that these programs be voluntary and that cities
5 retain discretion in choosing whether to adopt a program.

6 **Sec. 2.** RCW 76.15.010 and 2021 c 209 s 4 are each amended to
7 read as follows:

8 The definitions in this section apply throughout this chapter
9 unless the context clearly requires otherwise.

10 (1) "Department" means the department of natural resources.

11 (2) "Evergreen community" means a city, town, or county
12 designated as such under RCW 76.15.090.

13 (3) "Highly impacted community" has the same meaning as defined
14 in RCW 19.405.020 or an equivalent cumulative impacts analysis that
15 identifies the environmental health conditions of communities as a
16 factor of both environmental health hazards and vulnerable
17 populations as defined in RCW 19.405.020.

18 (4) "Management plan" means an urban forest management plan
19 developed pursuant to this chapter.

20 (5) "Tree bank" means an area or areas designated by a community
21 wherein trees can be planted to compensate for the removal of trees
22 elsewhere, and includes programs providing for the payment of a fee
23 in lieu of physically planting the trees.

24 (6) "Tree canopy" means the layer of leaves, branches, and stems
25 of trees that cover the ground when viewed from above and that can be
26 measured as a percentage of a land area shaded by trees.

27 ~~((+6))~~ (7) "Tribes" means any federally recognized Indian tribes
28 whose traditional lands and territories include parts of the state.

29 ~~((+7))~~ (8) "Urban and community forest" or "urban forest" is
30 that land in and around human settlements ranging from small
31 communities to metropolitan areas, occupied or potentially occupied
32 by trees and associated vegetation. Urban and community forestland
33 may be planted or unplanted, used or unused, and includes public and
34 private lands, lands along transportation and utility corridors, and
35 forested watershed lands within populated areas. Nothing in this
36 chapter may be construed to apply to lands subject to or designated
37 under chapter 76.09, 79.70, 79.71, 84.33, or 84.34 RCW.

38 ~~((+8))~~ (9) "Urban and community forest assessment" or "urban
39 forest assessment" means an analysis of the urban and community

1 forest inventory to: Establish the scope and scale of forest-related
2 benefits and services; determine the economic valuation of such
3 benefits, highlight trends, and issues of concern; identify high
4 priority areas to be addressed; outline strategies for addressing the
5 critical issues and urban landscapes; and identify opportunities for
6 retaining trees, expanding forest canopy, and planting additional
7 trees to sustain Washington's urban and community forests.

8 ~~((9))~~ (10) "Urban and community forest inventory" or "urban
9 forest inventory" means a management tool designed to gauge the
10 condition, management status, health, and diversity of an urban and
11 community forest. An inventory may evaluate individual trees or
12 groups of trees or canopy cover within urban and community forests,
13 and will be periodically updated by the department.

14 ~~((10))~~ (11) "Urban and community forestry" or "urban forestry"
15 means the planning, establishment, protection, care, and management
16 of trees and associated plants individually, in small groups, or
17 under more naturally forested conditions within cities, counties, and
18 tribal lands.

19 ~~((11))~~ (12) "Urban and community forestry ordinance" or "urban
20 forestry ordinance" is an ordinance developed by a city, county, or
21 tribe that promotes urban forestry management and care of trees.

22 ~~((12))~~ (13) "Vulnerable populations" has the same meaning as
23 defined in RCW 19.405.020.

24 **Sec. 3.** RCW 76.15.110 and 2021 c 209 s 10 are each amended to
25 read as follows:

26 (1) The department must provide technical assistance and capacity
27 building resources and opportunities to cities, counties, federally
28 recognized tribes, and other public and private entities in the
29 development and coordination of policies, programs, and activities
30 for the promotion of urban and community forestry.

31 (2) The department may use existing urban and community forestry
32 inventory tools or develop additional tools to assist cities,
33 counties, federally recognized tribes, and other public and private
34 entities to collect urban and community forest tree data that informs
35 urban and community forestry management, planning, and policy
36 development.

37 (3) The department shall strive to enable Washington cities'
38 urban forest managers to access carbon markets by working to ensure

1 tools developed under this section are compatible with existing and
2 developing urban forest carbon market reporting protocols.

3 (4) The department may use existing tools to assist communities
4 to develop urban forestry management plans. Management plans may
5 include, but not be limited to, the following elements:

6 (a) Inventory and assessment of the jurisdiction's urban and
7 community forests utilized as a dynamic management tool to set goals,
8 implement programs, and monitor outcomes that may be adjusted over
9 time;

10 (b) (~~Canopy~~) Tree canopy cover goals;

11 (c) Reforestation and tree canopy expansion goals within the
12 city's, town's, and county's boundaries;

13 (d) Restoration of public forests;

14 (e) Achieving forest stand and tree diversity goals;

15 (f) Maximizing vegetated stormwater management with trees and
16 other vegetation that reduces runoff, increases soil infiltration,
17 and reduces stormwater pollution;

18 (g) Environmental health goals specific to air quality, habitat
19 for wildlife, and energy conservation;

20 (h) Vegetation management practices and programs to prevent
21 vegetation from interfering with or damaging utilities and public
22 facilities;

23 (i) Prioritizing planting sites;

24 (j) Standards for tree selection, siting, planting, and pruning;

25 (k) Scheduling maintenance and stewardship for new and
26 established trees;

27 (l) Staff and volunteer training requirements emphasizing
28 appropriate expertise and professionalism;

29 (m) Guidelines for protecting existing trees from construction-
30 related damage and damage related to preserving territorial views;

31 (n) Integrating disease and pest management;

32 (o) Wood waste utilization;

33 (p) Community outreach, participation, education programs, and
34 partnerships with nongovernment organizations;

35 (q) Time frames for achieving plan goals, objectives, and tasks;

36 (r) Monitoring and measuring progress toward those benchmarks and
37 goals;

38 (s) Consistency with the urban wildland interface codes developed
39 by the state building code council;

1 (t) Emphasizing landscape and revegetation plans in residential
2 and commercial development areas where tree retention objectives are
3 challenging to achieve; and

4 (u) Maximizing building heating and cooling energy efficiency
5 through appropriate siting of trees for summer shading, passive solar
6 heating in winter, and for wind breaks.

7 (5) The department may use existing tools to assist communities
8 to develop urban forestry ordinances. Ordinances may include, but not
9 be limited to, the following elements:

10 (a) Tree canopy cover, density, and spacing;

11 (b) Tree conservation and retention;

12 (c) Vegetated stormwater runoff management using native trees and
13 appropriate nonnative, nonnaturalized vegetation;

14 (d) Clearing, grading, protection of soils, reductions in soil
15 compaction, and use of appropriate soils with low runoff potential
16 and high infiltration rates;

17 (e) Appropriate tree siting and maintenance for vegetation
18 management practices and programs to prevent vegetation from
19 interfering with or damaging utilities and public facilities;

20 (f) Native species and nonnative, nonnaturalized species
21 diversity selection to reduce disease and pests in urban forests;

22 (g) Tree maintenance;

23 (h) Street tree installation and maintenance;

24 (i) Tree and vegetation buffers for riparian areas, critical
25 areas, transportation and utility corridors, and commercial and
26 residential areas;

27 (j) Tree assessments for new construction permitting;

28 (k) Recommended forest conditions for different land use types;

29 (l) Variances for hardship and safety;

30 (m) Variances to avoid conflicts with renewable solar energy
31 infrastructure, passive solar building design, and locally grown
32 produce; and

33 (n) Permits and appeals.

34 (6) The department must establish optional model urban forestry
35 ordinances and recommendations and deliver technical assistance and
36 planning support to local jurisdictions that decide to utilize the
37 model ordinances and recommendations. These model ordinances and
38 recommendations must:

39 (a) Establish criteria for including tree bank programs in urban
40 forestry ordinances;

1 (b) Establish criteria for designating areas for tree banks,
2 including that tree banks must be located within areas identified as
3 priority regions under RCW 76.15.100 and areas suffering from adverse
4 environmental factors including, but not limited to, erosion,
5 flooding, air or water pollution, and the urban heat island effect;

6 (c) Using the best available science, determine, at a minimum:

7 (i) The appropriate ratios of trees planted within the tree bank
8 to trees removed elsewhere within the community; and

9 (ii) The appropriate species of trees to be used within the tree
10 bank;

11 (d) Provide a tree selection and siting tool for use by local
12 jurisdictions; and

13 (e) Provide best practices for maintaining and growing newly
14 planted trees within a tree bank.

15 (7) The department may consult with the department of commerce in
16 the process of providing technical assistance, on issues including,
17 but not limited to, intersections between urban forestry programs and
18 growth management act planning.

19 ~~((+7))~~ (8) The department may use existing and develop
20 additional innovative tools to facilitate successful implementation
21 of urban forestry programs including, but not limited to,
22 comprehensive tool kit packages (tree kits) that can easily be
23 shared, locally adapted, and used by cities, counties, tribes, and
24 community stakeholders.

25 ~~((+8))~~ (9) The department must encourage communities to include
26 participation and input by vulnerable populations through community
27 organizations and members of the public for urban and community
28 forestry plans in the regions where they are based.

29 ~~((+9))~~ (10) Delivery of resources must be targeted based on the
30 analysis and prioritization provided in RCW 76.15.100.

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