
House votes major changes to Endangered Species Act

Senate unlikely to take up measure that drops requirement for saving critical habitat

- [Zachary Coile, Chronicle Washington Bureau](#)
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Washington -- The House approved broad changes to the Endangered Species Act on Thursday that critics say could make it more difficult to list species as endangered and to limit development of habitat that biologists say is critical to the survival of endangered wildlife.

The bill also would, for the first time, require the federal government to pay farmers, ranchers, developers and other land owners if protections for plants and animals force them to give up the use of their land.

Supporters of the measure said the House vote was a major step toward reducing the regulatory burden on land owners who have endangered species on their property.

"If we're truly going to bring these species back from the brink and do the responsible thing, private property owners have to be part of the solution," said House Resources Chairman Richard Pombo, R-Tracy, the chief sponsor of the bill.

But the bill's critics said it stripped the landmark 1973 law of some of its toughest enforcement provisions. Opponents said the measure also would create a costly new government program that could pay large sums of money to wealthy developers and property owners.

"It establishes an extraordinary new entitlement program for developers and speculators that requires taxpayers to pay them unlimited amounts of money," said House Democratic leader Nancy Pelosi of San Francisco.

The Congressional Budget Office estimates the private property provision could cost \$10 million during its first five years, but it warned the payments could rise quickly once more land owners began to apply for aid.

The bill passed on a 229-193 vote, which did not break along traditional party lines. Thirty-six Democrats, many representing rural areas in the West and South, voted for the

bill, while 34 Republicans, mostly moderates from the East Coast and the Midwest, opposed it.

The measure was one of the most controversial environmental bills of the year, pitting real estate developers and agricultural interests -- who complain about the bill's restrictions on land use -- against environmental groups, which have often used the law to sue for greater protections for threatened species.

The vote was a victory for Pombo, the San Joaquin County rancher and property rights activist who has made rewriting the law his No. 1 priority since being elected to Congress in 1992.

But the bill faces much tougher going in the Senate. Sen. Lincoln Chafee of Rhode Island, a moderate Republican known for favoring environmental protections, chairs the Senate Environment and Public Works subcommittee that oversees the act. He has said he has no plans to take up the legislation this year.

Chafee has said he is waiting for a report expected in February by the Keystone Center in Colorado, a group funded by environmental groups and industry that mediates natural resource disputes, on the effectiveness of the act's critical habitat designations.

The House bill's most important change would be to eliminate the 3-decade-old requirement that the Fish and Wildlife Service designate critical habitat for endangered species. The designation sets limits on how the land -- private or public -- can be developed.

Rep. Dennis Cardoza, D-Atwater (Merced County), the chief co-sponsor of the measure, has complained that many critical habitat designations are too broad and block development, especially in rural areas. He noted that in 2003 the Fish and Wildlife Service designated 4.1 million acres in California -- mostly freshwater ponds, marshes, streams and stock ponds -- as critical habitat for the California red-legged frog.

"One has to wonder, if it can be found on 4.1 million acres, is it truly endangered?" Cardoza said on the House floor.

But environmental groups and some lawmakers have argued that ending critical habitat designations -- and replacing them with less restrictive recovery plans -- would remove the government's most powerful tool for protecting the fast-disappearing habitat of many endangered plants and animals.

The House bill also would direct the Interior Secretary to write new rules about what type of science government biologists can use in deciding about endangered species. Critics of the bill fear the Bush administration may write new regulations to make it more difficult to get new species listed as threatened or endangered.

"Reforming the law shouldn't be an excuse for gutting the act -- and that's exactly what this bill would do," said Rep. Sherwood Boehlert, R-N.Y.

Democrats, joined by some Republicans, offered a substitute measure that would eliminate the House bill's compensation program for land owners and instead offer technical assistance grants to help property owners who protect species on their land.

The bill, like Pombo's measure, would end critical habitat designations, but it would replace them with new rules requiring the government to protect habitat for species first on public lands -- such as wildlife refuges, national parks and forests -- before restricting development on private land.

The measure, sponsored by Boehlert and Rep. George Miller, D-Martinez, failed 206-216.

Pombo noted that many Democrats acknowledged during Thursday's debate that the law had flaws and needed to be updated.

"We've come a long way," Pombo said. "I've been working on this issue since I got here. When I first started, all I heard was there was nothing wrong with the act that a little more money wouldn't solve. Here we are today, and everyone is saying there are problems with the act that we have to fix."

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