

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6805

Chapter 133, Laws of 2008

60th Legislature
2008 Regular Session

FARM AND FOREST LAND PRESERVATION AND RESTORATION

EFFECTIVE DATE: 06/12/08

Passed by the Senate March 10, 2008
YEAS 47 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House March 5, 2008
YEAS 96 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved March 25, 2008, 11:26 a.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6805** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

March 25, 2008

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6805

AS AMENDED BY THE HOUSE

Passed Legislature - 2008 Regular Session

State of Washington 60th Legislature 2008 Regular Session

By Senate Agriculture & Rural Economic Development (originally sponsored by Senators Haugen, Rasmussen, McAuliffe, Kline, and Kohl-Welles)

READ FIRST TIME 02/05/08.

1 AN ACT Relating to promoting farm and forest land preservation and
2 environmental restoration through conservation markets; creating new
3 sections; and providing an expiration date.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

6 (a) Farmers and small forest landowners should be encouraged
7 through the use of incentives to conserve and restore natural areas on
8 their farms and small tree farming operations in ways that improve the
9 long-term viability of these operations by providing ongoing revenue to
10 these operations without taking whole farms or significant amounts of
11 farmland or small tree farming operations out of production;

12 (b) Farmers and small forest landowners have the ability to produce
13 restoration products as well as implement conservation practices on
14 their productive agricultural lands and small tree farms in a way that
15 is likely to be useful to fulfill the mitigation, compliance, and other
16 environmental needs of public agencies such as the Washington state
17 department of transportation, and to meet other market demands such as
18 the availability of feed or conditions for overwintering of migratory
19 waterfowl or for conserving and enhancing fish and wildlife habitat;

1 (c) Family farmers and family-owned small tree farming operations
2 currently produce environmental benefits that would cost millions of
3 dollars to replace with man-made infrastructure. Among these benefits
4 are water filtration, floodwater dispersal, fish and wildlife habitat,
5 open spaces, and scenic views;

6 (d) Other communities in the United States have established
7 conservation markets in which landowners are paid to produce such
8 restoration products; and

9 (e) The use of such markets could provide much needed income to
10 sustain the viability of Washington farmers and small forest
11 landowners, meet mitigation and compliance needs, accelerate permitting
12 of public infrastructure, and provide environmental benefits.

13 (2) Therefore, the legislature finds that it is good public policy
14 to evaluate the feasibility and potential effectiveness of conservation
15 markets in Washington state that provide dual benefits of improving the
16 viability of agriculture and providing environmental or fish and
17 wildlife benefits.

18 NEW SECTION. **Sec. 2.** (1) Subject to the availability of amounts
19 appropriated for this purpose, the commission shall conduct a study to
20 evaluate the feasibility and desirability of establishing farm-based or
21 forest-based conservation markets in Washington. The commission may
22 enter into a contract with an entity that has the knowledge and
23 experience of agriculture and of conservation markets for this effort.
24 The commission, entity, or both shall:

25 (a) Evaluate other conservation markets in operation in the United
26 States that provide ongoing revenue to improve the long-term viability
27 of family farms and small forestry operations, including those focused
28 on water quality trading, endangered species conservation banking,
29 rental of environmental benefits, and wetland banking, to determine
30 relevant lessons for Washington conservation markets;

31 (b) Collaborate with Washington farm organizations, small forestry
32 landowner organizations, key farm community leaders, agricultural
33 special purpose districts, local governments, and relevant natural
34 resource agencies to:

35 (i) Determine interests, needs, and concerns about participating in
36 a conservation market;

1 (ii) Assess the market-ready environmental maintenance,
2 restoration, and enhancement products that could profitably and
3 dependably be produced on farms and small forestry operations,
4 including endangered species habitat, wetlands, water quality
5 treatment, carbon sequestration, biodiversity, and other fish and
6 wildlife habitat; and

7 (iii) Identify opportunities for conservation markets that could
8 provide ongoing revenue to improve the long-term viability of family
9 farming and small forestry operations and could supplement existing
10 conservation programs currently used by landowners, such as the
11 conservation reserve enhancement program, and increased use of the
12 public benefit rating system;

13 (c) Work with the Washington state department of transportation,
14 utility districts, local road departments, and other public agencies to
15 determine potential demand for restoration products produced on farms
16 and small forestry operations to fulfill upcoming mitigation and
17 compliance needs. The underlying analysis shall emphasize demand
18 associated with construction of roads, utilities, and other public
19 structures, as well as periodic repermitting of wastewater and other
20 public utilities;

21 (d) Forecast market activity, including the potential supply of
22 restoration products, including those produced through existing
23 restoration programs, and the potential demand for such products to
24 address mitigation, compliance, and other environmental needs and other
25 market demands. This analysis shall also identify services, materials,
26 technical assistance, financing, and other support that would
27 facilitate the use of conservation markets;

28 (e) Consult with the Washington departments of ecology and fish and
29 wildlife, the United States army corps of engineers, and local
30 government permitting agencies to determine their willingness to use
31 farm-produced restoration products to fulfill mitigation and compliance
32 needs and also evaluate changes in rules and policy that would
33 facilitate permitting of conservation market activities;

34 (f) Consult with the Northwest Indian fisheries commission and
35 individual Indian tribes to determine their interest in and potential
36 support of conservation markets;

37 (g) Coordinate with the department of agriculture regarding the
38 "Future of Farming" project, the William D. Ruckelshaus Center on its

1 activities relating to chapter 353, Laws of 2007, the office of
2 farmland preservation and the office's efforts to retain farmland in
3 agricultural production, the Washington biodiversity project, the
4 department of ecology regarding its "Mitigation that Works" project,
5 and the office of regulatory assistance on its integrated project
6 review and mitigation project to ensure consistency with these efforts;
7 and

8 (h) Develop findings and recommendations on the feasibility and
9 desirability of creating farm-based and forest-based conservation
10 markets in Washington state.

11 (2) If the study determines that farm-based conservation markets
12 are feasible and desirable, the commission, contracting entity, or
13 both, shall conduct two demonstration projects in Washington farm
14 communities. The commission, entity, or both shall:

15 (a) Select demonstration project areas that have a combination of
16 enthusiastic farmers, a substantial supply of potential restoration
17 products from farms, potential for public and private cost-sharing of
18 project costs, and upcoming development or permitting activity that is
19 likely to trigger significant mitigation and compliance demands;

20 (b) Identify and map areas of highly productive agricultural
21 activity and work with the departments of ecology and fish and wildlife
22 to identify locations of high-priority wetland and habitat restoration
23 or water quality improvement to ensure that conservation market-driven
24 restoration does not infringe on highly productive farmland;

25 (c) Identify up to three potential credit transactions in each
26 demonstration project area and work with relevant farmers, permittees,
27 and permitting agencies to facilitate transactions in mitigation and
28 compliance credits;

29 (d) Work with the department of ecology and other relevant
30 permitting agencies to develop standards for approval of conservation
31 market transactions to fulfill mitigation and compliance requirements
32 and to identify priority areas for focusing conservation market sites
33 based on the highest ecological benefits for the watershed and the
34 restoration of ecosystem processes that minimize impacts to high
35 quality agricultural lands;

36 (e) Work with conservation districts to determine district interest
37 in participation in a conservation markets program, including a

1 determination of district capacity and resources to participate in such
2 a program;

3 (f) Evaluate options for facilitating conservation market
4 transactions, including the use of farmer cooperatives, brokerage
5 services, and banks; and

6 (g) Develop findings on the results of the demonstration projects
7 and the implications for broader use of farm-based conservation markets
8 in Washington state.

9 (3) As used in this act:

10 (a) "Commission" means the Washington state conservation
11 commission.

12 (b) "Conservation market" means a farm or forest-based market for
13 selling credits for wetland or habitat restoration or water quality
14 cleanup to agencies in need of such credits to fulfill environmental
15 mitigation, compliance requirements, and other environmental needs.
16 The term shall also be broadly interpreted to include any program that
17 provides ongoing revenue to sustain the long-term viability of farms
18 and small forestry operations as a result of maintaining or enhancing
19 environmental benefits such as open space, fish and wildlife habitat,
20 floodwater dispersal, water filtration, buffers from more intense
21 development, or any other environmental benefit resulting from the
22 ongoing operation of the farm.

23 (c) "Small forest landowner" has the same meaning as in RCW
24 76.09.450.

25 (4) The commission shall present findings and recommendations from
26 the conservation markets study to the governor and appropriate
27 committees of the legislature by December 1, 2008. The findings and
28 recommendations shall include:

29 (a) Findings regarding the match between the availability of farm-
30 produced and forestry-produced restoration products and the demand for
31 such products associated with mitigation and compliance for public
32 agency projects and activities in the demonstration project area;

33 (b) Findings regarding the interests and capabilities of farmers,
34 small forest landowners, public development agencies, and permitting
35 agencies to participate in the demonstration conservation market;

36 (c) Findings regarding the likelihood that farm-based and
37 forest-based conservation markets could provide a successful mechanism

1 for addressing mitigation, compliance, and other environmental needs
2 for public construction projects and permitting of public utilities;
3 and

4 (d) Recommendations on whether to proceed to the initiation of
5 demonstration projects.

6 (5) If the project proceeds into the demonstration project phase,
7 the commission shall present findings and recommendations regarding the
8 conservation markets' demonstration projects to the governor and
9 appropriate committees of the legislature by December 1, 2009. The
10 findings and recommendations shall include:

11 (a) Findings on the ability to produce conservation market-ready
12 restoration and clean-up projects without infringing on high-quality
13 farmland;

14 (b) Findings on standards for review and approval of conservation
15 market transactions in permitting processes;

16 (c) Findings on potential conservation market transactions in the
17 demonstration project areas;

18 (d) Recommendations on measures that the Washington state
19 department of transportation and other state agencies can take to
20 facilitate their use of conservation markets to fulfill mitigation and
21 compliance needs and waterfowl or wildlife habitat enhancement goals;

22 (e) Recommendations on support services that could be provided by
23 state agencies to facilitate conservation markets throughout
24 Washington, including but not limited to financing, permit assistance,
25 technical assistance, materials, and other services.

26 (6) This section expires December 31, 2009.

27 NEW SECTION. **Sec. 3.** If specific funding for the purposes of this
28 act, referencing this act by bill or chapter number, is not provided by
29 June 30, 2008, in the omnibus appropriations act, this act is null and
30 void.

Passed by the Senate March 10, 2008.
Passed by the House March 5, 2008.
Approved by the Governor March 25, 2008.
Filed in Office of Secretary of State March 25, 2008.