

FINAL BILL REPORT

2SHB 2481

C 126 L 10
Synopsis as Enacted

Brief Description: Authorizing the department of natural resources to enter into forest biomass supply agreements.

Sponsors: House Committee on General Government Appropriations (originally sponsored by Representatives Van De Wege, Kretz, Blake, Hinkle, Ormsby, Dunshee, McCoy, Eddy, Upthegrove, Carlyle, Haler, Morrell, Warnick and Kessler; by request of Commissioner of Public Lands).

House Committee on Technology, Energy & Communications
House Committee on General Government Appropriations
Senate Committee on Natural Resources, Ocean & Recreation
Senate Committee on Ways & Means

Background:

State Trust Lands.

The Department of Natural Resources (DNR) manages 5.6 million acres of forest, range, agricultural, aquatic, and commercial lands for the people of Washington. The DNR manages approximately 2.3 million acres of forested state trust lands.

Under a mix of authorities, including state law, the state Constitution, and the state's federal Enabling Act, these state trust lands are held by the state for specified trust beneficiaries. In total, there are 18 trust beneficiaries that derive some level of economic benefit from the management of these trust lands. The beneficiaries include common schools, the state universities, community colleges, counties, and the state's Capital Budget.

Board of Natural Resources.

The Board of Natural Resources (Board) sets policies to guide how the DNR manages state's lands and resources. The Board was formed with the DNR was created in 1957. The Board has several responsibilities: (1) approve or disapprove trust land timber and mineral sales; (2) establish the sustainable harvest level for forested trust lands; (3) approve or disapprove sales or exchanges of trust lands; and (4) guide the DNR's stewardship of state Natural Area Preserves, Natural Resources Conservation Areas, and aquatic or submerged lands.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Forest Biomass Demonstration Projects.

In 2009 the DNR was authorized to develop and implement two forest biomass energy demonstration projects: one east of the crest of the Cascade mountains and one west of the crest of the Cascade mountains. The demonstration projects must be designed to:

- reveal the utility of Washington's public and private forest biomass feedstock;
- create green jobs and generate renewable energy;
- generate revenues or improve asset values for beneficiaries of state lands and state forest lands;
- improve forest health, reduce pollution, and restore ecological function; and
- avoid interfering with the current working area for forest biomass collection surrounding an existing fixed location biomass energy production site.

To develop and implement the forest biomass energy demonstration projects, the DNR is authorized to form forest biomass energy partnerships or cooperatives. The preferred model would use public-private partnerships focused on convening the entities necessary to grow, harvest, process, transport, and utilize forest biomass to generate renewable energy.

Summary:

List and Inventory.

The DNR is authorized to maintain a list of all potential sources of forest biomass on state lands for the purposes of making biomass available for sale, exploration, collection, processing, storage, stockpiling, and conversion into energy, biofuels, for use in a biorefinery, or any other similar use.

The inventory must contain an estimated amount of the forest biomass available in the area and a determination of the ecological and operation sustainability of volumetric limit established by the biomass agreement. Prior to entering a contract or lease agreement for biomass supply, the DNR must complete an inventory of the available forest biomass in the area that will be subject to a contract or lease agreement. Forest biomass energy demonstration projects are exempt from this requirement.

In order to utilize the list to limit or terminate any contract or lease agreement, the DNR must determine that the overall supply of biomass in a region or watershed has been reduced to a point that further exploration and collection of biomass may not be ecologically or operationally sustainable or might otherwise threaten long-term forest health.

Forest Biomass Contracts.

The DNR may enter into biomass supply contracts for a term of up to five years or upon the removal of the agreed upon volume of biomass and the completion of other conditions of the contract.

The DNR may contract for the sale of biomass as a valuable material by:

- requiring a separate bid and select the highest bidder for the forest biomass separately from the sale of valuable materials;
- expressly include forest biomass as an element of the sale of the valuable materials to be sold in the sales contracts; or
- a combination of these two options.

The DNR may also enter into either:

- direct sales for biomass, without public auction, based upon procedures adopted by the Board of Natural Resources to ensure competitive market prices and accountability; or
- contracts for biomass at public auction or by sealed bid to the highest bidder.

The DNR may enter into contract terms for up to 15 years when an entity plans and commits to a capital investment of at least \$50 million before the contract and completes that investment prior to removal of biomass under the contract. The DNR may include provisions in the contract that are periodically adjusted for market conditions. The contract is required to include provisions that allow the DNR, when it is in the best interest of the trust beneficiaries, to maintain access to existing users of biomass.

The biomass volume that is conveyed under this act will not be counted toward the DNR's sustainable harvest targets, except that appraised timber sold in a conventional timber sale will count toward the target whether individual trees are used by the purchaser for timber or biomass energy.

The DNR must specify in each contract an annual volumetric limit of the total cubic volume or tons of forest biomass to be supplied from a specific unit, geographically delineated area, or region within a watershed or watersheds on an ecologically and operationally sustainable basis. The DNR must adopt general procedures for making the biomass supply availability determinations.

The DNR may unilaterally amend the volume to be supplied by providing the contracting party with a minimum of six months notice prior to reducing the contract volume to be supplied if the DNR determines the supply has been reduced to a point that it is no longer sustainable or may adversely affect long-term forest health.

The DNR may renew the contract for up to three additional five-year periods if the DNR finds:

- a sustainable supply of biomass is available for the term of the contract;
- the payment under the contract represents the fair market value at the time of the renewal; and
- the purchaser agrees to the estimated amount of biomass material available.

Forest Biomass Leases.

The DNR is authorized to lease state lands for the sale, exploration, collection, processing, storage, stockpiling, and conversion of biomass into energy or biofuels, if the DNR is able to obtain a fair market rental return to the state.

Leases may be entered into by public auction or negotiation, and may be for a term of up to 50 years. For leases that involve the development of biomass processing, biofuel manufacturing, or biomass energy production facilities, the DNR may include provisions for reduced rent until the facility is operational.

Reporting Requirements.

The DNR must evaluate how forest biomass supply contracts and lease agreements could be used to sustain or create rural jobs and timber manufacturing infrastructure, and to sell state timber to traditional types of timber purchasers. The DNR must report its findings to the Legislature by December 15, 2010. The evaluation must, at a minimum, identify how such contracts and agreements could:

- ensure the DNR meets its fiduciary responsibility to the state's trust beneficiaries;
- restore or sustain a competitive market for state timber sales;
- generate returns for the trust that are commensurate with fluctuating market prices; and
- ensure environmental compliance with all pertinent state and federal laws, and provide for ecologically and operationally sustainable biomass removal.

Also, the DNR is required to conduct a survey of scientific literature regarding the carbon neutrality of forest biomass and report to the Legislature by December 15, 2010.

Forest Health Supply Agreement Demonstration Project.

The DNR may establish a five-year forest health and fuel reduction supply agreement demonstration project for the purposes of proving the concepts in the evaluation.

Forest Biomass Definition.

The definition for "forest biomass" is moved from chapter 43.30 RCW relating to the DNR's responsibilities to chapter 79.02 RCW relating to the Public Lands Act. "Forest biomass" is defined as the by-products of current forest management activities; current forest protection treatments prescribed or permitted under the Forest Protection Act; or the by-products of forest health treatment prescribed or permitted under the Forest Insect and Disease Control Act. It is further specified that "forest biomass" does not include: wood pieces that have been treated with chemical preservatives such as: creosote, pentachlorophenol, or copper-chrome-arsenic; wood from existing old growth forests; wood required to be left on-site under the Forest Practices Act; and implementing rules, and other legal and contractual requirements; or municipal solid waste.

Votes on Final Passage:

House	92	0	
Senate	47	0	(Senate amended)
House	94	1	(House concurred)

Effective: June 10, 2010

January 1, 2014 (Section 12)