

# SENATE BILL REPORT

## SB 6539

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As of February 5, 2018

**Title:** An act relating to ensuring compliance with the state's fiduciary duty in managing state trust lands.

**Brief Description:** Ensuring compliance with the state's fiduciary duty in managing state trust lands.

**Sponsors:** Senators Braun, Rivers and Wilson.

**Brief History:**

**Committee Activity:** Agriculture, Water, Natural Resources & Parks: 1/29/18, 2/01/18 [DPS-WM].

**Ways & Means:** 2/05/18.

### Brief Summary of First Substitute Bill

- Directs the Department of Natural Resources (DNR) to endeavor to generate an average of \$230 million from state lands and state forestlands each year.
- Requires DNR to conduct an analysis on specified aspects of its lands portfolio, management practices, and transaction processes.
- Directs the Joint Legislative Audit and Review Committee (JLARC) to develop methods or tools to estimate the current asset value of state lands and state forestlands.
- Requires DNR to evaluate certain industrial and commercial leases and use authorizations on state-owned aquatic lands relating to matters including terms, revenue, and inspection and compliance.

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### SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

**Majority Report:** That Substitute Senate Bill No. 6539 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Van De Wege, Chair; McCoy, Vice Chair; Warnick, Ranking Member; Honeyford and Nelson.

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*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.*

**Staff:** Curt Gavigan (786-7437)

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## SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Jed Herman (786-7346)

**Background:** DNR manages a number of different categories of land, each for a specific purpose and under different management requirements.

State Trust Lands. Upon statehood, the United States granted the State of Washington over 3 million acres to support various public institutions. DNR now manages over 2 million acres of federally granted trust lands to provide revenue for public schools, state universities, buildings on the capitol campus, and correctional facilities. The largest acreage category is for common schools, with almost 1.8 million acres.

State Forest Lands. DNR also manages more than 600,000 acres of state forest lands, which were acquired primarily through tax foreclosures in the 1920s and 1930s, and to a lesser extent through purchases by the state or gifts to the state. State forest lands are managed for the benefit of the counties in which the lands are located.

State-Owned Aquatic Lands. The Legislature has designated DNR as the manager of state-owned aquatic lands. In managing these lands, DNR must support a balance of statutory goals including encouraging public access, fostering water-dependent uses, utilizing renewable resources, protecting the environment, and generating revenue. DNR has general leasing authority for aquatic lands. The Legislature has directed DNR, however, to favor water-dependent uses. A water dependent use is a use that cannot logically exist in any location but on water.

**Summary of Bill (First Substitute):** DNR Upland Management Direction and Analysis. DNR must endeavor to generate an average of \$230 million from state lands and state forestlands each year. In evaluating annual revenue, DNR must adjust the \$230 million goal for inflation.

By December 1, 2018, DNR must analyze its lands portfolio, management practices, and transaction processes and:

- develop options and recommendations to promote achievement of the \$230 million revenue goal;
- review options to leverage high value, low performing lands to include land sales;
- for state forestlands, include an analysis and options for creating a unitary trust, and alternative management structures including certain lease and sale options; and
- analyze other options identified by DNR for legislative consideration.

JLARC Study. By December 1, 2021, JLARC must develop methods or tools to estimate the current asset value of state lands and state forestlands. The methods must be designed to be accurate, resource efficient, allow segregation of asset classes, and allow repeated estimates over time.

The bill includes legislative findings.

DNR Aquatic Lands Lease and Use Authorization Evaluation. Within existing appropriations, DNR must evaluate use authorizations and leases for industrial and commercial uses on state-owned aquatic lands. The evaluation does not include leases or use authorizations for purposes of marinas or moorage. DNR must complete the evaluation by December 1, 2018. It must cover matters such as:

- a summary of each lease and use authorization, including lease terms;
- revenue from each lease and use authorization, including the method or formula used;
- inspections conducted and monitoring reports submitted over a ten-year period relating to lease and use authorization terms and environmental, health, and safety standards; and
- compliance activities conducted by DNR.

**EFFECT OF CHANGES MADE BY AGRICULTURE, WATER, NATURAL RESOURCES & PARKS COMMITTEE (First Substitute):**

- Removes a portion of legislative intent and findings language.
- Shifts the date of the DNR study on state upland management practices and processes from September 1 to December 1, 2018, and specifies its purpose as ensuring the state's fiduciary duty is being met and increasing the amount and stability of uplands revenue.
- Establishes a DNR evaluation of use authorizations and leases for industrial and commercial uses on state-owned aquatic lands. The evaluation must include information such as: a summary of terms and authorized uses; revenue information; and a summary of certain inspection and compliance records and requirements.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill (Agriculture, Water, Natural Resources & Parks):** *The committee recommended a different version of the bill than what was heard.* PRO: Money from trust lands supports capital construction. This revenue has been on the decline over previous decades. The goal here is to put some pressure on DNR to create additional revenue and better understand what the return on investment is. Timber is key to local economies, and this bill will help the Legislature get a better understanding of how state lands are managed. Key aspects of the bill are the stated goals of meeting fiduciary obligations, growing revenue, and better understanding the asset value. Counties and mills also rely on state timber lands, and they need the state to follow through with planned harvest levels. Perhaps an independent evaluation may be better than DNR conducting the study.

OTHER: DNR welcomes the discussion and sees active timber management as an important goal. However, achieving the stated goal of \$230 million per year in revenue may conflict

with the need to meet sustainable harvest calculation and intergenerational equity principles. The study timeframe is also quite tight.

**Persons Testifying (Agriculture, Water, Natural Resources & Parks):** PRO: Senator John Braun, Prime Sponsor; Tom Nelson, Sierra Pacific Industries; Bruce Beckett, Port of Port Angeles; Heath Heikkila, American Forest Resource Council; Tom Lannen, Commissioner, Skamania County; Thomas Swanson, Vice President, Green Crow Corp; Russ Pfeiffer-Hoyt, Washington State School Directors Association.

OTHER: Brock Milliern, DNR.

**Persons Signed In To Testify But Not Testifying (Agriculture, Water, Natural Resources & Parks):** No one.

**Staff Summary of Public Testimony (Ways & Means):** PRO: This bill is important as the actions of the DNR are important part of generating revenue for our schools. The School Directors Association is in support of the bill. The Legislature needs to give better tools to DNR to be better able to transact lands. Timber from DNR managed lands is important for our mills. Need to make sure that support of junior taxing districts are taken in consideration.

CON: We do not support the bill. It removes options for creativity in dealing with issues like the marbled murrelet. Trust Land Transfer is an important tool, it should count as revenue.

OTHER: We support the asset valuation policy. We have questions about how to achieve the revenue of \$230 million. We would like the deadline for the aquatic land report pushed forward in time.

**Persons Testifying (Ways & Means):** PRO: Senator John Braun, Prime Sponsor; Brian Sims, Washington State School Directors' Association; Heath Heikkila, American Forest Resource Council; Bruce Beckett, Port of Port Angeles.

CON: Darcy Nonemacher, Washington Environmental Council.

OTHER: Dave Warren, Legislative Director, Department of Natural Resources.

**Persons Signed In To Testify But Not Testifying (Ways & Means):** No one.