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**SECOND SUBSTITUTE SENATE BILL 5947**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators McCoy, Schoesler, Palumbo, King, Salomon, and Warnick)

AN ACT Relating to establishing the sustainable farms and fields grant program; and adding new sections to chapter 43.23 RCW.

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

NEW SECTION. **Sec.**  The legislature finds and declares that Washington's working farms and ranches are integral to the state's environment and economy. The legislature further finds that opportunities exist to reduce fossil-fuel energy usage on farms and ranches, including that which is embedded in fertilizers, pesticides, and pumped water. Reducing fossil fuel use on farms and ranches will reduce local and global pollution while helping farmers and ranchers save money. Moreover, the legislature finds that opportunities exist to enhance soil health by adopting precision agriculture and regenerative agriculture practices that increase soil organic carbon levels, and to store carbon in standing trees. It is therefore the intent of the legislature to provide financial assistance to voluntary farmers and ranchers who adopt practices that reduce fossil fuel inputs in their operations and increase the quantity of carbon stored on their land.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this section and sections 3 through 6 of this act.

(1) "Agricultural products" means any product taxable under chapter 84.34 RCW and not taxable under chapter 84.33 RCW.

(2) "Agroforestry" means the addition of new trees or shrubs to a primarily commercial farm or ranch business, with a priority given to creating new riparian buffers along waterways.

(3) "Carbon dioxide emissions content inherent in electricity" means the carbon dioxide generated by the production of electricity from fossil fuels.

(4) "Carbon dioxide equivalent emission" means a metric measure used to compare the emissions from various greenhouse gases based on their global warming potential.

(5) "Carbon farming" means any activity or technology that increases the quantity of organic carbon in top soil, such as cover cropping, no-till and low-till and conservation tillage practices, crop rotations, manure application, biochar application, compost application, and changes in grazing practices.

(6) "Department" means the Washington state department of agriculture.

(7) "Ecosystem services" means any ecological service generated as a result of the landscape and vegetation that provides benefits to human health, fish health, animal health, insect health, habitat, erosion prevention, flood prevention, or reduces or prevents pollution from entering our soils, waterways, or local air.

(8) "Fertilizer" has the same meaning as in WAC 16-200-725 as it existed on January 1, 2019.

(9) "Forest products" means any product taxable under chapter 84.33 RCW.

(10) "Fossil fuel" includes motor vehicle fuel, special fuel, dyed special fuel, aircraft fuel, natural gas, coal, and any form of solid, liquid, or gaseous fuel derived from natural gas, coal petroleum, or crude oil, including without limitation still gas propane, and petroleum residuals including bunker fuel.

(11) "Fossil fuel-based fertilizer" means a fertilizer produced using fossil fuels as a feedstock regardless of the source of process energy.

(12) "Fossil fuel-based pesticides" means a pesticide produced using fossil fuels as a feedstock regardless of the source of process energy.

(13) "Fossil fuel energy" means any form of energy produced using fossil fuels as a feedstock regardless of the source of process energy.

(14) "Large commercial farm and field business" means a farm or ranch that has a gross cash income greater than two hundred fifty thousand dollars, including the sale of agricultural products and wood products.

(15) "Nonfossil fuel-based fertilizer" means a fertilizer produced using no fossil fuels as feedstocks regardless of the source of process energy.

(16) "Nonfossil fuel-based pesticides" means a pesticide produced using no fossil fuels as feedstocks regardless of the source of process energy.

(17) "Nonfossil fuel energy" means any form of energy produced using no fossil fuels as a feedstock regardless of the source of process energy.

(18) "One hundred year storage equivalency method" means assigning the same value to both one ton of carbon dioxide equivalent emissions and the storage of previously atmospheric carbon dioxide absorbed and stored on the planet for a period of one hundred years.

(19) "Pesticide" has the same meaning as defined in RCW 17.21.020.

(20) "Precision agriculture" means site-specific management practices where sensing, information technologies, and mechanical systems enable subfield crop management.

(21) "Primarily commercial forestry business" means a commercial business that generates at least fifty percent of its expected average annual gross revenue from the sale of forest products.

(22) "Primarily farm or ranch business" means a commercial business that generates at least fifty percent of its annual gross revenue from the sale of agricultural products.

(23) "Process energy" means energy consumed in support of a manufacturing, industrial, or commercial process.

(24) "Regenerative agriculture" means a system of farming principles and practices that increase biodiversity, enriches soils, improves watersheds, and enhances ecosystem services.

(25) "Small commercial farm and field business" means a farm or ranch that has a gross cash farm income less than two hundred fifty thousand dollars.

(26) "Working farmland" and "working ranchland" has the same meaning as "farm and agricultural land" in RCW 84.34.020, excluding RCW 84.34.020(2) (a)(ii) and (d)(iii).

NEW SECTION. **Sec.**  (1) Subject to the availability of amounts appropriated for this specific purpose, the department may develop, in consultation with the state conservation commission, Washington State University, and the United States department of agriculture natural resources conservation service, a sustainable farms and fields grant program through rule making under chapter 34.05 RCW.

(2) The following activities must be included as activities which are eligible for grant funding under the sustainable farms and fields grant program:

(a) On-farm fossil fuel input efficiency measures:

(i) Any activity or technology that reduces the quantity of fossil fuels, including carbon dioxide emissions content inherent in electricity, used per unit of agricultural output;

(ii) Any activity or technology that reduces the quantity of fossil fuels, including carbon dioxide emissions content inherent in electricity, of water used per unit of agricultural output;

(iii) Any activity or technology that reduces the quantity of fossil fuel-based fertilizer or lime used per unit of agricultural output; and

(iv) Any activity or technology that reduces the quantity of fossil fuel-based pesticides used per unit of agricultural output;

(b) Agroforestry;

(c) Carbon farming.

(3) Sustainable farms and fields grants are for working farmlands and working ranchlands and may not be awarded to fund activities on lands enrolled in a government-sponsored conservation set-aside program. This subsection does not apply to agroforestry.

(4) Sustainable farms and fields grant funding may not be awarded to primarily commercial forestry businesses, except for: (a) Land, equipment, or activities solely associated with the production of agricultural products; or (b) areas that have been depleted by fire or pest infestations.

(5) Sustainable farms and fields grant funding may not be awarded to fund ocean-based aquaculture or blue carbon practices.

(6) The department shall ensure, to the extent practicable based on grant applications received, that roughly twenty percent of available funding is awarded to each of the categories under subsection (2)(a) through (c) of this section. The remaining available funding should be awarded to the most effective projects, as determined by the department, regardless of category.

(7) The department shall inform the department of natural resources of any applications involving state lands leased by the department of natural resources.

NEW SECTION. **Sec.**  (1) Subject to the availability of amounts appropriated for this specific purpose, when prioritizing grant recipients, the department, in consultation with the state conservation commission, Washington State University, the United States department of agriculture natural resources conservation service, and the department of natural resources, shall seek to maximize the total reduction in atmospheric carbon dioxide equivalents per dollar awarded by leveraging other nonstate public or private funding. For the purpose of prioritizing grant recipients, and for the purpose of the report required under section 6 of this act, storing one ton of carbon dioxide equivalents in soil, standing trees, or shrubs must be compared to carbon dioxide equivalent emissions using the one hundred year storage equivalency method annualized linearly with one-ton year of carbon dioxide equivalents storage having one-hundredth the relative value as the emission of one ton of carbon dioxide equivalents. The department shall consider projects that maximize ecosystem cobenefits including habitat.

(2) Sustainable farms and fields grant funding may be applied towards: (a) Down payments on equipment or other types of loans; (b) blended use of fossil fuel-based pesticides and nonfossil fuel-based pesticides; (c) blended use of fossil fuel-based fertilizers and nonfossil fuel-based fertilizers; (d) blended use of fossil fuel energy and nonfossil fuel energy; (e) no-till equipment; (f) precision agriculture equipment; (g) advanced irrigation systems; (h) geographic information system technologies; (i) costs associated with installation of carbon farming practices; (j) costs associated with installation of agroforestry practices; (k) costs associated with estimation, measurement, and verification; and (l) other equipment, practices, or investments deemed by the department to contribute to the goals of sections 2 through 7 of this act. Grant applicants may apply to share equipment purchased with sustainable farms and fields grant funding.

(3) The department may award up to twenty percent of available sustainable farms and fields grant funds to projects that would not otherwise qualify for funding by maximizing the total reduction in atmospheric carbon dioxide equivalent per dollar awarded. These types of projects must be primarily related to watershed protection, health and habitat connectivity, contribute to the development of important research, or encourage the growth or development of new industries in Washington.

(4) Five percent of available funds, or as much thereof as may be necessary, must be spent by the department each fiscal year to create educational campaigns that raise awareness about the sustainable farms and fields grant program. The department may spend up to fifty percent of any unused funds in a single fiscal year for such educational campaigns.

(5) Up to ten percent of available funds may be spent by the department to provide technical assistance to grant applicants in cooperation with the state conservation commission, Washington State University, the United States department of agriculture natural resources conservation service, and the department of natural resources or other similar entities.

(6) Up to five percent of available funds may be used by the department to cover the cost of administering the sustainable farms and fields grant program.

(7) For the first five years appropriations are received, up to five percent of available funds may be used to develop programs and models to assist with the grant prioritization process of the sustainable farms and fields grant program.

(8) The department shall make reasonable efforts to award at least eighty percent of funds made available for sustainable farms and fields grants each fiscal year. If funds are not fully awarded during a fiscal year due to the lack of qualified applicants, unused funds may be carried over to the next fiscal year and awarded to eligible grant applicants in that year.

(9) In the rules adopted under this chapter, the department shall establish procedures for determining whether a grant recipient is required to enter into a no-time commitment, short-term, or long-term contract not to exceed fifty years.

(10) Grants awarded for carbon farming activities with an uncertain storage life may include ongoing annual payments for the previous year's storage or up-front cumulative payments based on the expected storage in future years. Grant contracts that include up-front payments for future benefits must be conditioned to include penalties for default due to negligence on the part of the recipient. The department must deprioritize projects that have the potential to harm existing ecosystem services or fail to increase carbon sequestration at a landscape level.

(11) The department may require that a grant recipient allow access to the property, with reasonable notice, to monitor the impacts of the project. All grant recipients shall allow information about their projects to be made available to the public. The department shall maintain a public list of all grant recipients, and other pertinent information, including total state dollars spent or borrowed, and total atmospheric carbon dioxide equivalent emissions impact.

NEW SECTION. **Sec.**  Subject to the availability of amounts appropriated for this specific purpose, in the rules adopted under this chapter, the department shall determine methods in consultation with Washington State University, the state conservation commission, the United States department of agriculture natural resources conservation service, and the department of natural resources for estimating, measuring, and verifying outcomes under the sustainable farms and fields grant program. Estimation, measurement, and verification must include recording of fossil fuel energy, nonfossil fuel energy, fossil fuel-based fertilizers, nonfossil fuel-based fertilizers, fossil fuel-based pesticides, nonfossil fuel-based pesticides, and soil sampling. The rules must distinguish between small and large commercial farm and field businesses. The department shall ensure small commercial farm and field businesses are able to utilize grants without undue burden by developing simplified estimation, measurement, and verification methods. The department must consider how other models, including those used or created by federal agencies, can be combined with data from such sources as utility reports, equipment specifications, and other available data to determine emissions reduction benefits. The department must also consider how technical assistance may be made available to small commercial farm and field businesses for the purpose of estimation, measurement, and verification.

NEW SECTION. **Sec.**  (1) After the first appropriation to the sustainable farms and fields account received after January 2020, the department shall biennially report to the legislature consistent with RCW 43.01.036 on the performance of the sustainable farms and fields grant program. The report must document the nonstate matching funds that were used by sustainable farms and fields grant recipients; the total state dollars awarded under the program; the total state dollars spent on providing technical assistance, education campaigns, and administration; the quantity of carbon dioxide equivalent emissions avoided; the quantity of carbon stored for carbon farming projects; and the total atmospheric carbon dioxide equivalent emissions impact of all activities funded under the grant program to date and expected over the life of each project by grant category.

(2) Before November 15, 2019, the department must initiate a preliminary rule-making process to implement the provisions in this act and engage stakeholders in the rule-making process.

(3)(a) On or before November 15, 2019, the department shall submit a report to the legislature consistent with RCW 43.01.036 that includes recommendations regarding the minimum and maximum appropriations that could support the sustainable farms and fields grant program over a four-year budget cycle and make recommendations regarding the supplemental budget year.

(b) The report required in (a) of this subsection must include other recommendations to the legislature regarding any statutory changes to reduce administrative burden, increase clarity, or otherwise improve this chapter.

NEW SECTION. **Sec.**  (1) The sustainable farms and fields account is created in the state treasury. All receipts of money directed to the account must be deposited in the account. Expenditures from the account may be used only for purposes relating to the sustainable farms and fields grant program established in this chapter. Moneys in the account may be spent only after appropriation.

(2) No appropriations may be made to the sustainable farms and fields account until January 2020, except to provide funds for activities under section 6 (2) and (3) of this act.

NEW SECTION. **Sec.**  Sections 1 through 7 of this act are each added to chapter 43.23 RCW.

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