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**Agriculture & Natural Resources  
Committee**

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**HB 2320**

**Brief Description:** Creating a wetland mitigation program.

**Sponsors:** Representatives Linville, Schoesler, Sump and Grant; by request of Commissioner of Public Lands.

**Brief Summary of Bill**

- Authorizes the Department of Natural Resources to accept money to establish mitigation banks on state-owned aquatic lands and to sell mitigation bank credits.

**Hearing Date:** 1/13/04

**Staff:** Jason Callahan (786-7117).

**Background:**

The Legislature has delegated to the Department of Natural Resources (DNR) the responsibility for managing the state's aquatic lands for the benefit of the public (RCW 79.90.450). The management of aquatic lands must support a balance of goals, including the encouragement of public access, the fostering of water-dependent uses, the utilization of renewable resources, and the generation of revenue (RCW 79.90.455). Revenues generated from the state's aquatic lands are generally directed to be used for public benefits, such as shoreline access, environmental protection, and recreational opportunities (RCW 79.90.450). Under current law, the DNR may lease aquatic lands (RCW 79.90.460), and exchange state-owned aquatic lands for privately owned lands (RCW 79.90.457). The DNR may also accept gifts of aquatic lands (RCW 79.90.580).

The DNR does not have the express authority to commence an aquatic lands mitigation banking program. However, a wetlands mitigation bank is authorized under the Department of Ecology (Chapter 90.84 RCW). Credits from the wetlands mitigation bank may be used by state agencies and local governments to compensate for the proposed impacts of a specific public or private project on wetlands (RCW 90.84.040). Credits from the wetlands mitigation bank may only be used if all appropriate and practicable steps have been made to minimize environmental impacts, there is no opportunity for on-site compensation, and the credits represent the creation, restoration, or enhancement of wetlands in close proximity to the project (RCW 90.84.050).

The DNR has the duty to report to the Legislature each session any recommendations for statutory change relating to the handling of public lands that is deemed advisable (RCW 79.10.010).

**Summary of Bill:**

The DNR is authorized to accept public and private money in order to create an endowment to generate funds for long-term monitoring, maintenance, and management of compensatory mitigation sites and mitigation bank sites located on state-owned aquatic lands. The amount of funding required to establish the endowment must be determined by the DNR prior to its assumption of management responsibilities for each site, and must be based on the specific conditions of the mitigation site and the long-term management plan for the site.

Compensatory mitigation is defined as the process of restoring, creating, or preserving aquatic resources, either uplands or wetlands, for the purposes of compensating unavoidable adverse impacts. Compensatory mitigation can occur either on-site, at a nearby site, or at a site located distant from the project's impacts. The mitigation can also occur either in advance of, or at the same time as, a project's impact, and may provide either the same, or different, biological functions as those functions impacted by the project.

The DNR is also authorized to sell mitigation credits from a mitigation bank located on state-owned aquatic lands. A credit is defined as a unit of trade representing the increase in the ecological value of a site. This increase can be measured by acreage, functions, values, or any other assessment method. The mitigation bank is a business venture that restores, creates, enhances, or preserves natural resources for the purpose of providing compensatory mitigation. All credits from the DNR's bank must be sold for no less than market value as determined using current market appraisal techniques.

Revenue generated from the sale of mitigation credits are bifurcated. The amount of money identified as needed for long-term management in the site's endowment must be deposited in the Aquatic Lands Compensatory Mitigation Endowment Account (Endowment Account). This non-appropriated account is created to generate revenues that fund long-term management, maintenance, and monitoring of mitigation sites. The money in the Endowment Account must be pooled and administered by the State Investment Board. Revenues that exceed that amount identified in the site's endowment for long-term management must be distributed to local governments, the Aquatic Lands Management Account, and the Resource Management Cost Account.

Any interest and investment revenues generated by the Endowment Account must be transferred to the Aquatic Lands Compensatory Mitigation Account (Mitigation Account). This non-appropriated account is created to accept revenue transfers from the Endowment Account and in-lieu compensation projects. In-lieu payments are cash payments used to compensate for project impacts. Moneys in the Mitigation Account can be used for purposes similar to the Endowment Account.

**Appropriation:** None.

**Fiscal Note:** Requested on 1/8/04.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.