
HOUSE BILL 1789

State of Washington

68th Legislature

2023 Regular Session

By Representatives Reeves, Fitzgibbon, Chapman, Kloba, Ramel, Pollet, and Fosse; by request of Department of Natural Resources

Read first time 02/07/23. Referred to Committee on Agriculture and Natural Resources.

1 AN ACT Relating to expanding revenue generation and economic
2 opportunities from natural climate solutions and ecosystem services;
3 amending RCW 79.02.010 and 79.105.150; reenacting and amending RCW
4 79.64.110 and 79.22.050; and adding a new chapter to Title 79 RCW.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that there are
7 myriad ways for the department of natural resources to generate
8 revenue from state lands for the benefit of its beneficiaries and the
9 state. The legislature recognizes it is in the best interest of the
10 trust beneficiaries and the state to increase revenue opportunities,
11 diversify the trust asset portfolio, and reduce costs. As new markets
12 emerge, the department should be enabled to take full advantage of
13 opportunities to diversify and grow revenue streams for beneficiaries
14 and the state, while also reducing costs.

15 (2) The legislature finds that the trust land performance
16 assessment, completed pursuant to section 7015, chapter 298, Laws of
17 2018, recommends exploring opportunities to diversify funding streams
18 for revenue generation, including utilizing carbon markets, as well
19 as other ways to monetize ecosystem services for the beneficiaries
20 and the state. The legislature further finds that the climate
21 commitment act, which established a cap and invest program under

1 chapter 70A.65 RCW, makes Washington state a leader in climate policy
2 and, through the codification of carbon offset projects, creates a
3 new way for revenue to be generated from lands and waters in the
4 state. The legislature intends that the carbon offset projects
5 established for this program benefit the people of Washington by
6 being located on Washington lands and waters to the extent possible,
7 rather than outside the state. To accomplish this, the department
8 seeks the authority to sell carbon offset credits directly under the
9 rules of the Washington state cap and invest program.

10 (3) The legislature finds that as the manager of approximately
11 6,000,000 acres of lands and waters, the department is well suited to
12 take actions that increase carbon sequestration and storage, generate
13 revenue from those actions through carbon offset projects, and
14 provide additional benefits including reforestation, forest health
15 restoration, afforestation, air and water purification, habitat
16 creation, temperature regulation, stormwater management, and disaster
17 mitigation.

18 (4) The legislature further finds that private industry is
19 leading the way by entering carbon markets and that the department
20 should have similar authority as private industry to enter carbon
21 markets to generate revenue and reduce costs for beneficiaries and
22 the state. For these reasons, the legislature believes the department
23 should have the same authority to enter carbon markets as private
24 industry for carbon offset and ecosystem services projects on state
25 lands.

26 (5) Additionally, the legislature finds that by granting the
27 department direct authority to enter carbon markets, the department
28 will be able to create additional revenue streams to complement
29 existing traditional revenue streams thereby reducing costs for
30 beneficiaries and the state. Opportunities include projects in which
31 the department would be able to generate revenue through the
32 reforestation of certain postwildfire areas that otherwise would not
33 have been replanted. These areas will regenerate more quickly and
34 robustly than had they not been replanted, which will result in more
35 revenue for beneficiaries from future harvests.

36 (6) The legislature also finds that forest health treatments that
37 increase the resilience of Washington forests to wildfire may be
38 eligible for carbon offset projects, thus creating a new source of
39 funding for those treatments, reducing the costs to the state or
40 beneficiaries by generating new revenue sources.

1 (7) The legislature further finds that areas that have been
2 transferred out of trust status into natural areas or natural
3 resource conservation areas may be eligible for carbon offset
4 projects or other payment for ecosystem services projects, which
5 would create a new revenue stream from lands that otherwise would not
6 generate revenue and that the department currently incurs a cost to
7 maintain.

8 (8) The legislature additionally finds that the department could
9 acquire working forestlands at risk of conversion, and generate
10 revenue for beneficiaries and for the state both through carbon
11 offset projects having prevented the forestland from likely
12 converting to nonforestland, and additionally through future harvests
13 on those acquired forestlands.

14 (9) The legislature finds that similar opportunities exist in
15 aquatic lands for kelp and eelgrass conservation and restoration
16 projects that reduce conservation and restoration costs to the state
17 and help to generate revenue for aquatic lands enhancement account
18 funds for salmon habitat improvements.

19 (10) Therefore, the legislature intends to establish the direct
20 authority for the department to generate revenue on its lands and
21 waters through payment for ecosystem services programs including, but
22 not limited to, carbon offset projects. Accordingly, the legislature
23 intends to provide the department the necessary authority to create
24 carbon offset and ecosystem services projects under the cap and
25 invest program.

26 NEW SECTION. **Sec. 2.** The definitions in this section apply
27 throughout this chapter unless the context clearly requires
28 otherwise.

29 (1) "Carbon credit" means one metric ton of carbon dioxide
30 equivalent removed from the atmosphere or prevented from being
31 emitted into the atmosphere as a result of a carbon offset project
32 and within a carbon market transaction.

33 (2) "Carbon offset project" has the same meaning as "offset
34 project" as defined in RCW 70A.65.010.

35 (3)(a) "Ecosystem services" has the same meaning as defined in
36 RCW 76.09.020.

37 (b) Examples of ecosystem services include, but are not limited
38 to, carbon sequestration and storage, air and water filtration,
39 climate stabilization, and disturbance mitigation.

1 (4) "Ecosystem services credit" means a predetermined and
2 standardized unit that represents measurable ecosystem services
3 provided in the context of a payment for an ecosystem services
4 project.

5 (5) "Ecosystem services marketplace" has the same meaning as
6 "ecosystem services market" as defined in RCW 76.09.020.

7 (6) "Ecosystem services project broker" means an entity that
8 facilitates the process of matching ecosystem services providers and
9 purchasers of ecosystem services project credits. An ecosystem
10 services project broker may sell or procure credits on their clients'
11 behalf and provide financing and marketing expertise. Ecosystem
12 services project brokers may also act as ecosystem service project
13 developers.

14 (7) "Ecosystem services project developer" means an entity that
15 sources and initiates ecosystem services projects on behalf of the
16 ecosystem services provider including, but not limited to, by working
17 with ecosystem services project standards and verification bodies,
18 bearing financial risks of projects, and working with a network of
19 distributors and retailers to deliver auditable ecosystem services
20 project credits to a marketplace. An ecosystem services project
21 developer may also act as an ecosystem services project broker.

22 (8) "Payment for ecosystem services project" means a transaction
23 within an ecosystem services marketplace that transfers financial
24 incentives to ecosystem services providers that are conditional on
25 the provision of the service. Project types include, but are not
26 limited to, carbon offset projects.

27 NEW SECTION. **Sec. 3.** (1) The department is authorized to enter
28 into contracts for payment for ecosystem services projects on terms
29 and conditions acceptable to the department for the purpose of
30 generating revenue by providing ecosystem services that directly or
31 indirectly benefit humans or enhance social welfare. The contract
32 term may last a period of up to 125 years. Proceeds from contracts
33 for ecosystem services must be deposited into the appropriate account
34 in the state treasury.

35 (2) The department may enter into payment for ecosystem services
36 projects on all public lands managed by the department.

37 (3) The department may:

38 (a) Directly offer for sale ecosystem services credits with
39 established compliance or voluntary ecosystem services marketplaces.

1 (b) Enter into contracts with ecosystem services project
2 developers or brokers, through public auction or by direct
3 negotiation, to bring ecosystem services credits to market. Contracts
4 for ecosystem services are subject to rules adopted by the board.

5 (4) Notice of intent to contract by negotiation must be published
6 on the department's website. The notice must be published within the
7 90 days preceding commencement of negotiations.

8 (5) The department is authorized to conduct any additional
9 advertising that it determines to be in the best interest of the
10 state.

11 (6) The department may enter into contracts or agreements with
12 third-party ecosystem services project developers or brokers for
13 purposes that include, but are not limited to, determining the
14 feasibility of entering into a contract for a payment for an
15 ecosystem services project, establishing a payment for an ecosystem
16 services project with an ecosystem services marketplace, and
17 marketing and selling credits on an established ecosystem services
18 marketplace.

19 (7) The department must provide a report to the board upon
20 execution of a contract for a payment for an ecosystem services
21 project that includes the term of the contract and projected
22 revenues.

23 NEW SECTION. **Sec. 4.** (1) Before entering into the sale of
24 ecosystem services credits under this chapter, the board must approve
25 contract terms and a minimum payment for ecosystem services that is
26 valid for a period of 180 days, or a longer period as may be
27 established by resolution. The board may reestablish the minimum
28 payment at any time. For any ecosystem services credit sales that the
29 board is required by law to approve, the board may by resolution
30 transfer this authority to the commissioner.

31 (2) Where the board has set a minimum payment for ecosystem
32 services credits, the department may set the final payment for
33 ecosystem services credits, which must be based on current market
34 prices.

35 **Sec. 5.** RCW 79.02.010 and 2018 c 258 s 1 are each amended to
36 read as follows:

37 The definitions in this section apply throughout this title
38 unless the context clearly requires otherwise.

1 (1) "Aquatic lands" means all state-owned tidelands, shorelands,
2 harbor areas, and the beds of navigable waters as defined in RCW
3 79.105.060 that are administered by the department.

4 (2) "Board" means the board of natural resources.

5 (3) "Commissioner" means the commissioner of public lands.

6 (4) "Community and technical college forest reserve lands" means
7 lands managed under RCW 79.02.420.

8 (5) "Community forest trust lands" means those lands acquired and
9 managed under the provisions of chapter 79.155 RCW.

10 (6) "Department" means the department of natural resources.

11 (7) (a) "Forest biomass" means the by-products of: Current forest
12 management activities; current forest protection treatments
13 prescribed or permitted under chapter 76.04 RCW; or the by-products
14 of forest health treatment prescribed or permitted under chapter
15 76.06 RCW.

16 (b) "Forest biomass" does not include wood pieces that have been
17 treated with chemical preservatives such as: Creosote,
18 pentachlorophenol, or copper-chrome-arsenic; wood from existing old
19 growth forests; wood required to be left on-site under chapter 76.09
20 RCW, the state forest practices act; and implementing rules, and
21 other legal and contractual requirements; or municipal solid waste.

22 (8) "Good neighbor agreement" means an agreement entered into
23 between the state and the United States forest service or United
24 States bureau of land management to conduct forestland, watershed,
25 and rangeland restoration activities on federal lands, as originally
26 authorized by the 2014 farm bill (P.L. 113-79).

27 (9) "Improvements" means anything considered a fixture in law
28 placed upon or attached to lands administered by the department that
29 has changed the value of the lands or any changes in the previous
30 condition of the fixtures that changes the value of the lands.

31 (10) "Land bank lands" means lands acquired under RCW 79.19.020.

32 (11) "Person" means an individual, partnership, corporation,
33 association, organization, cooperative, public or municipal
34 corporation, or agency of a federal, state, or local governmental
35 unit, however designated.

36 (12) "Public lands" means lands of the state of Washington
37 administered by the department including but not limited to state
38 lands, state forestlands, lands included in a state forestland pool,
39 and aquatic lands.

1 (13) "State forestland pool" or "land pool" means state
2 forestlands acquired and managed under RCW 79.22.140.

3 (14) "State forestlands" means lands acquired under RCW
4 79.22.010, 79.22.040, and 79.22.020.

5 (15) "State lands" includes:

6 (a) School lands, that is, lands held in trust for the support of
7 the common schools;

8 (b) University lands, that is, lands held in trust for university
9 purposes;

10 (c) Agricultural college lands, that is, lands held in trust for
11 the use and support of agricultural colleges;

12 (d) Scientific school lands, that is, lands held in trust for the
13 establishment and maintenance of a scientific school;

14 (e) Normal school lands, that is, lands held in trust for state
15 normal schools;

16 (f) Capitol building lands, that is, lands held in trust for the
17 purpose of erecting public buildings at the state capital for
18 legislative, executive, and judicial purposes;

19 (g) Institutional lands, that is, lands held in trust for state
20 charitable, educational, penal, and reformatory institutions; and

21 (h) Land bank, escheat, donations, and all other lands, except
22 aquatic lands, administered by the department that are not devoted to
23 or reserved for a particular use by law.

24 (16) "Valuable materials" means any product or material on the
25 lands, such as forest products, forage or agricultural crops, stone,
26 gravel, sand, peat, and all other materials of value except: (a)
27 Mineral, coal, petroleum, and gas as provided for under chapter 79.14
28 RCW; ~~((and))~~ (b) forest biomass as provided for under chapter 79.150
29 RCW; and (c) ecosystem services as provided for under chapter 79.---
30 RCW (the new chapter created in section 9 of this act).

31 (17) (a) "Ecosystem services" has the same meaning as defined in
32 RCW 76.09.020.

33 (b) Examples of ecosystem services include, but are not limited
34 to, carbon sequestration and storage, air and water filtration,
35 climate stabilization, and disturbance mitigation.

36 **Sec. 6.** RCW 79.64.110 and 2021 c 334 s 995 and 2021 c 145 s 3
37 are each reenacted and amended to read as follows:

38 (1) Any moneys derived from the lease of state forestlands or
39 from the sale of valuable materials, oils, gases, coal, minerals,

1 (~~or~~) fossils, or contracts for ecosystem services from those lands,
2 except as provided in RCW 79.64.130, or the appraised value of these
3 resources when transferred to a public agency under RCW 79.22.060,
4 except as provided in RCW 79.22.060(4), must be distributed as
5 follows:

6 (a) For state forestlands acquired through RCW 79.22.040 or by
7 exchange for lands acquired through RCW 79.22.040:

8 (i) The expense incurred by the state for administration,
9 reforestation, and protection, not to exceed (~~twenty-five~~) 25
10 percent, which rate of percentage shall be determined by the board,
11 must be returned to the forest development account created in RCW
12 79.64.100. During the 2017-2019, 2019-2021, and 2021-2023 fiscal
13 biennia, the board may increase the (~~twenty-five~~) 25 percent
14 limitation up to (~~twenty-seven~~) 27 percent.

15 (ii) Any balance remaining must be paid to the county in which
16 the land is located or, for counties participating in a land pool
17 created under RCW 79.22.140, to each participating county
18 proportionate to its contribution of asset value to the land pool as
19 determined by the board. Payments made under this subsection are to
20 be paid, distributed, and prorated, except as otherwise provided in
21 this section, to the various funds in the same manner as general
22 taxes are paid and distributed during the year of payment. However,
23 in order to test county flexibility in distributing state forestland
24 revenue, a county may in its discretion pay, distribute, and prorate
25 payments made under this subsection of moneys derived from state
26 forestlands acquired by exchange between July 28, 2019, and June 30,
27 2020, for lands acquired through RCW 79.22.040, within the same
28 county, in the same manner as general taxes are paid and distributed
29 during the year of payment for the former state forestlands that were
30 subject to the exchange.

31 (iii) Any balance remaining, paid to a county with a population
32 of less than (~~sixteen thousand~~) 16,000, must first be applied to
33 the reduction of any indebtedness existing in the current expense
34 fund of the county during the year of payment.

35 (iv) With regard to moneys remaining under this subsection
36 (1)(a), within seven working days of receipt of these moneys, the
37 department shall certify to the state treasurer the amounts to be
38 distributed to the counties. The state treasurer shall distribute
39 funds to the counties four times per month, with no more than (~~ten~~)
40 10 days between each payment date.

1 (b) For state forestlands acquired through RCW 79.22.010 or by
2 exchange for lands acquired through RCW 79.22.010, except as provided
3 in RCW 79.64.120:

4 (i) Fifty percent shall be placed in the forest development
5 account.

6 (ii) Fifty percent shall be prorated and distributed to the state
7 general fund, to be dedicated for the benefit of the public schools,
8 to the county in which the land is located or, for counties
9 participating in a land pool created under RCW 79.22.140, to each
10 participating county proportionate to its contribution of asset value
11 to the land pool as determined by the board, and according to the
12 relative proportions of tax levies of all taxing districts in the
13 county. The portion to be distributed to the state general fund shall
14 be based on the regular school levy rate under RCW 84.52.065 (1) and
15 (2) and the levy rate for any school district enrichment levies. With
16 regard to the portion to be distributed to the counties, the
17 department shall certify to the state treasurer the amounts to be
18 distributed within seven working days of receipt of the money. The
19 state treasurer shall distribute funds to the counties four times per
20 month, with no more than (~~ten~~) 10 days between each payment date.
21 The money distributed to the county must be paid, distributed, and
22 prorated to the various other funds in the same manner as general
23 taxes are paid and distributed during the year of payment.

24 (2) A school district may transfer amounts deposited in its debt
25 service fund pursuant to this section into its capital projects fund
26 as authorized in RCW 28A.320.330.

27 **Sec. 7.** RCW 79.22.050 and 2003 c 334 s 220 and 2003 c 313 s 7
28 are each reenacted and amended to read as follows:

29 Except as provided in RCW 79.22.060, all land, acquired or
30 designated by the department as state forestland, shall be forever
31 reserved from sale, but the valuable materials thereon may be sold,
32 ecosystem services may be sold, or the land may be leased in the same
33 manner and for the same purposes as is authorized for state lands if
34 the department finds such sale or lease to be in the best interests
35 of the state and approves the terms and conditions thereof.

36 In the event that the department sells logs using the contract
37 harvesting process described in RCW 79.15.500 through 79.15.530, the
38 moneys received subject to this section are the net proceeds from the
39 contract harvesting sale.

1 **Sec. 8.** RCW 79.105.150 and 2022 c 157 s 19 are each amended to
2 read as follows:

3 (1) After deduction for management costs as provided in RCW
4 79.64.040 and payments to towns under RCW 79.115.150(2), all moneys
5 received by the state from the sale or lease of state-owned aquatic
6 lands (~~and~~), from the sale of valuable material from state-owned
7 aquatic lands, and from the sale of ecosystem services under chapter
8 79.--- RCW (the new chapter created in section 9 of this act), shall
9 be deposited in the aquatic lands enhancement account which is hereby
10 created in the state treasury. After appropriation, these funds shall
11 be used solely for aquatic lands enhancement projects; for the
12 purchase, improvement, or protection of aquatic lands for public
13 purposes; for providing and improving access to the lands; and for
14 volunteer cooperative fish and game projects. The aquatic lands
15 enhancement account may be used to support the shellfish program, the
16 ballast water program, hatcheries, the Puget Sound toxic sampling
17 program and steelhead mortality research at the department of fish
18 and wildlife, the knotweed program at the department of agriculture,
19 actions at the University of Washington for reducing ocean
20 acidification, which may include the creation of a center on ocean
21 acidification, the Puget SoundCorps program, and support of the
22 marine resource advisory council and the Washington coastal marine
23 advisory council. During the 2017-2019 and 2019-2021 fiscal biennia,
24 the legislature may transfer from the aquatic lands enhancement
25 account to the geoduck aquaculture research account for research
26 related to shellfish aquaculture. During the 2015-2017 fiscal
27 biennium, the legislature may transfer moneys from the aquatic lands
28 enhancement account to the marine resources stewardship trust
29 account.

30 (2) In providing grants for aquatic lands enhancement projects,
31 the recreation and conservation funding board shall:

32 (a) Require grant recipients to incorporate the environmental
33 benefits of the project into their grant applications;

34 (b) Utilize the statement of environmental benefits,
35 consideration, except as provided in RCW 79.105.610, of whether the
36 applicant is a Puget Sound partner, as defined in RCW 90.71.010,
37 whether a project is referenced in the action agenda developed by the
38 Puget Sound partnership under RCW 90.71.310, and except as otherwise
39 provided in RCW 79.105.630, and effective one calendar year following
40 the development and statewide availability of urban forestry

1 management plans and ordinances under RCW 76.15.090, whether the
2 applicant is an entity that has been recognized, and what gradation
3 of recognition was received, in the evergreen community designation
4 program created in RCW 76.15.090 in its prioritization and selection
5 process; and

6 (c) Develop appropriate outcome-focused performance measures to
7 be used both for management and performance assessment of the grants.

8 (3) To the extent possible, the department should coordinate its
9 performance measure system with other natural resource-related
10 agencies as defined in RCW 43.41.270.

11 (4) The department shall consult with affected interest groups in
12 implementing this section.

13 (5) Any project designed to address the restoration of Puget
14 Sound may be funded under this chapter only if the project is not in
15 conflict with the action agenda developed by the Puget Sound
16 partnership under RCW 90.71.310.

17 NEW SECTION. **Sec. 9.** Sections 1 through 4 of this act
18 constitute a new chapter in Title 79 RCW.

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