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**SENATE BILL 6539**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Senators Braun, Rivers, and Wilson

AN ACT Relating to ensuring compliance with the state's fiduciary duty in managing state trust lands; adding a new section to chapter 79.10 RCW; and creating new sections.

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

NEW SECTION. **Sec.**  The legislature finds that state lands, as defined in RCW 79.02.010, play an important role in providing funding for education and other critical state and local public institutions. The department of natural resources' management of these lands is important, due to the fact that every dollar that is generated from state lands saves the state from expending a dollar from other revenue sources. Sustainable management of these lands is consistent with the legislature's intent to maintain sustainability in the revenue and services provided to the benefiting institutions. The portfolio of state lands and forestlands includes forestland, agricultural lands, and commercial lands. In managing state lands granted from the federal government, case law specifically charges the state with fiduciary duties, including duties of undivided loyalty and prudent management. The legislature further recognizes that state lands are used for multiple purposes and provide multiple benefits to the people of Washington, including recreation and other public benefits, when consistent with trust obligations.

The legislature finds that in the twenty-first century, the revenues from state lands and forestlands have been a flat and underperforming asset. In this century, average yearly revenue collections are thirty million dollars below intake during the 1990s. The timber board feet sold for this decade has continued to decline, with a sustainable harvest target that is now over two hundred million board feet below the target twenty years ago. In the last six years, the harvest has failed to meet even that lower target. The legislature is concerned that this level of fiscal performance is not fulfilling the state's fiduciary duty and intends to set targets for the trust lands to meet.

The legislature also finds that the state Constitution provides an alternative to having state lands managed as a land asset, by the establishment of permanent funds for the benefit of the same public institutions served by management of state lands. These permanent funds are managed by the state investment board and that the rate of return averages over five percent per annum.

In order to ensure the state is managing this resource in the most efficient and effective manner possible for the trust beneficiaries and allowable multiple uses for the people of Washington, the legislature finds that an evaluation of the current state land portfolio and management practices is appropriate. The legislature's goal in establishing this evaluation is to ensure the state's fiduciary duty is being met, increase the amount and stability of revenue from state land and state forestland over time, and develop tools to better estimate this asset value.

NEW SECTION. **Sec.**  A new section is added to chapter 79.10 RCW under the subchapter heading "general provisions" to read as follows:

(1) The department must endeavor to generate an average of two hundred thirty million dollars from state lands and state forestlands each year, which represents the approximate high water mark for such revenue since 2000.

(2) By September 1, 2018, the department must evaluate its lands portfolio and revenue streams, management practices, and transaction processes, and develop options and recommendations to promote achievement of this goal in a manner consistent with section 1 of this act. In conducting this evaluation, the department must seek to account for the volatility of forest product markets and consider ways to mitigate the impact of market downturns on its revenues. The department must provide these options and recommendations to the appropriate committees of the senate and house of representatives.

(a) The evaluation must specifically include an analysis of options that would leverage the earning potential for high value, low performing portions of state lands, with suggested legislative recommendations to enhance revenue generation from these types of lands, including the sale of these lands to convert the asset into one of the permanent funds managed by the state investment board.

(b) Regarding state forestlands, the evaluation must specifically include an analysis of options and recommendations for:

(i) The creation of a unitary trust for the revenue derived from state forestlands. The evaluation must include methods for allocating disbursements to the benefiting counties. The department must consult with the affected counties, their association, and the office of financial management. The recommendations may include options;

(ii) Any alternative management focus, such as returning the lands to the counties for their management, leasing the lands to private timber investment management organizations, and the sale and conversion of the lands into a trust account similar to the permanent funds managed by the state investment board; and

(iii) Any other options for legislative consideration.

(3) In evaluating annual revenue under this section, the department must annually adjust the two hundred thirty million dollar goal for inflation and may not count any trust land transfer funds towards the goal.

NEW SECTION. **Sec.**  The joint legislative audit and review committee must develop methods or tools to estimate the current asset value of state lands and forestlands, as defined in RCW 79.20.010. The methods should be designed to be as accurate and resource-efficient as possible and be designed to allow repeated estimates over time. The methods must allow for the segregation of different asset classes, and at a minimum allow for the tracking values over time for the following: Forestland, irrigated agricultural land, nonirrigated agricultural land, and commercial real estate land. The committee may recommend other asset classes to track in addition to those listed. The joint legislative audit and review committee must submit a summary of its selected method or tools and an initial estimate by December 1, 2021.

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