

SENATE BILL REPORT

SB 5688

As Reported by Senate Committee On:
Environment, Energy & Technology, February 17, 2023

Title: An act relating to providing carbon sequestration and ecosystem services in the management of public lands.

Brief Description: Providing carbon sequestration and ecosystem services in the management of public lands.

Sponsors: Senators Lovelett, Nguyen, Hunt, Liias, Rolfes and Saldaña; by request of Department of Natural Resources.

Brief History:

Committee Activity: Environment, Energy & Technology: 2/10/23, 2/17/23 [DP-WM, DNP].

Brief Summary of Bill

- Requires the Department of Ecology to establish a program to provide assistance to any state agency or local government seeking to develop an offset program relating to the lands they manage.
- Authorizes the Department of Natural Resources to enter into contracts for ecosystem service projects for up to 125 years in order to generate revenue by providing ecosystem services that directly or indirectly benefit humans or enhance social welfare.
- Requires the Board of Natural Resources to approve contract terms and minimum payment for ecosystem services, unless it transfers its authority to the Commissioner of Public Lands by resolution.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Majority Report: Do pass and be referred to Committee on Ways & Means.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Signed by Senators Nguyen, Chair; Lovelett, Vice Chair; Lovick, Trudeau and Wellman.

Minority Report: Do not pass.

Signed by Senators MacEwen, Ranking Member; Boehnke and Short.

Staff: Kimberly Cushing (786-7421)

Background: State Lands. The Department of Natural Resources (DNR) manages a number of different categories of land on behalf of the state of Washington, each for a specific purpose and under different management requirements. These include approximately 3 million acres of federally-granted lands and state forest lands, which DNR manages to support common schools, counties, and other public institutions. It also include approximately 2.6 million acres of state-owned aquatic lands.

State forest lands are managed for the benefit of the counties in which the lands are located. DNR has authority to sell timber and other valuable resources from state lands. Revenues generated by state forestlands are distributed to the counties in the same manner as general taxes are paid and distributed to the various taxing districts.

The Board of Natural Resources (Board) sets policies to guide how DNR manages the state's lands and resources.

Cap and Invest Program. In 2021, the Legislature passed the Climate Commitment Act and directed the Department of Ecology (Ecology) to implement a cap and invest program (Program) to reduce greenhouse gas (GHG) emissions consistent with the statewide statutory emissions limits.

Starting January 1, 2023, covered entities must either reduce their emissions or obtain allowances to cover any remaining emissions. The total number of allowances will decrease over time to meet statutory limits. The Program must track, verify, and enforce compliance through the use of compliance instruments. A compliance instrument is an allowance or offset credit issued by Ecology or a trading program that has linked with Washington's Program. One compliance instrument is equal to one metric ton of carbon dioxide equivalent.

A portion of a covered or opt-in entity's compliance obligation may be met through offset credits from projects that result in GHG reductions or removals that are real, permanent, quantifiable, verifiable, and enforceable. Offset projects must be in addition to emissions reductions that are required by law and a certain percentage must provide direct environmental benefits to Washington State.

Summary of Bill: Offset Program Assistance. Ecology must establish a program to provide assistance to any state agency or local government seeking to develop an offset

program relating to the lands they manage. The assistance may include, but is not limited to, funding or technical assistance to assess a project's technical feasibility, investment requirements, development and operational costs, expected returns, administrative and legal hurdles, and project risks and pitfalls.

Ecosystem Service Projects. DNR is authorized to enter into contracts for ecosystem service projects (ES projects), on terms and conditions acceptable to DNR, for the purpose of generating revenue by providing ecosystem services that directly or indirectly benefit humans or enhance social welfare.

Ecosystem service includes, but is not limited to, carbon sequestration and storage, air and water filtration, climate stabilization, disturbance mitigation, pollination, pest and disease control, waste decomposition and detoxification, and nutrient cycling.

The contracts may last for up to 125 years. Proceeds from the contracts must be deposited into the appropriate account in the state treasury and distributed in the same manner as money derived from the sale or lease of valuable materials under current law.

DNR may:

- enter into payment for ES projects on all public lands it manages;
- directly offer for sale ecosystem service credits with established compliance or voluntary ecosystem service marketplaces;
- enter into contracts with ES project developers or brokers to bring ecosystem service credits to market;
- enter into contracts or agreements with third-party ES project developers or brokers for purposes that include, but are not limited to, determining the feasibility of entering into a contract for payment for a ES project, establishing a payment for a ES project with an ecosystem service marketplace, and marketing and selling credits on an established ecosystem service marketplace.

DNR's website must publish notice of intent to contract by negotiation 90 days before the negotiations begin. DNR may conduct any additional advertising that is in the best interest of the state.

Upon executing a contract for payment for a ES project, DNR must provide a report to the Board that includes the term of the contract and projected revenues.

Before entering into the sale of ecosystem service credits, the Board must approve contract terms and a minimum payment for ecosystem services that is valid for a period of 180 days, or longer as established by resolution. The Board may reestablish the minimum payment at any time. The Board may transfer its authority to approve ecosystem service credit sales to the Commissioner of Public Lands by resolution.

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: PRO: Washington State does not yet have the infrastructure for communities to implement natural carbon sequestration. Natural adaptive measures are one of the most effective ways to ensure we are drawing down carbon from our atmosphere to reduce ocean acidification and create better habitat. The Climate Commitment Act (CCA) created a demand for local carbon offsets. But DNR is limited in its use of offsets and cannot access the carbon market because it can only lease lands for 99 years. DNR should have the same ability as private and nonprofit sectors in carbon offset market. This bill enables DNR to tap into new revenue streams and will not cost taxpayers a dime. Offsets are a relatively small part of compliance under the CCA and but the rules contain detailed protocols. Design programs that give back to the community. The global market for carbon offsets is increasing. This is a new tool for public lands that can lead to innovative projects. In addition to selling timber, DNR has ability to sell ecological services. We need to be responsive to changing scientific practices. Washington forests are carbon dense and are solutions for drawing down carbon in the atmosphere and creating diverse ecosystems. Carbon offsets and ecosystem credits are way to provide revenue. The Board oversees projects so beneficiaries remain whole. Social expectations are changing. The state's forests will have a vital impact on climate change only if well managed. We manage forests different today than the last 100 years. The sustainable wood products industry and carbon credits is where the economy is headed and will spur economic growth in rural communities.

CON: These are emerging markets with significant risks and unregulated or without oversight. Authorize a study to figure out how to move into market instead. The authorization for 125-year contracts is an extremely problematic multigenerational approach, with no review from the Board or public. The new authorities could have significant impact on trust beneficiaries and a new level of uncertainty. The bill needs language that allows early contract termination on terms that are fair to the trust. DNR and trust beneficiaries need to collaborate further before pushing forward with this policy. Rural areas continue to provide ecosystem services for all citizens of the state but are not getting compensated for these benefits. Junior taxing districts depend on the revenue from these properties to continue fulfilling their core mission. For some communities, the timber industry is a large economic contributor. Renewable resources generate carbon sequestration from new growing trees as well as sequestering carbon and products like lumber. Some think the best ways to manage forests is to silence them. But wood is the only sustainable and renewable building product. The best way to sequester carbon is in homes. There are no sideboards in the bill. Washington has a huge opportunity to harness working lands to sequester carbon and generate revenue for schools. We can use wood from Washington, or import wood from other jurisdictions or use carbon-intensive concrete and

steel. This bill will reduce timber harvest on half the lands that remain open for timber harvest. This bill needs clear language that states the ecosystem contracts must not reduce the sustainable harvest level.

OTHER: The beneficiaries of trust lands are very interested in increased revenue and diversification, but concerned if programs were undermined because of this bill. Trading revenue from timber harvests for less revenue from carbon isn't good for the environment, the state, or counties. Any ecosystems services project must have an increase in revenue. The Department of Ecology has requested technical amendments to clarify that the authority granted to DNR to participate in offset programs would be consistent with other projects under the climate commitment act.

Persons Testifying: PRO: Senator Liz Lovelett, Prime Sponsor; Isaac Kastama, Clean & Prosperous Washington; Sherri Dysart, League of Women Voters of Washington; Justin Allegro, The Nature Conservancy; Jarred-Michael Erickson, Confederated Tribes of the Colville Reservation; Alexander Harris, RE Sources; Peter Goldman; Darcy Nonemacher, Washington Conservation Action; Jon Hoekstra, Mountains to Sound Greenway Trust; Jill Silver, 10,000 Years Institute; Hilary Franz, Washington Department of Natural Resources; Csenka Favorini-Csorba, Washington Department of Natural Resources; Lauren Breynaert, Myno Carbon Corporation; AJ Dotzauer, Tulalip Tribes of WA.

CON: Tom Lannen, Skamania County Commissioners; Rod Fleck, City of Forks; Randy Johnson, Clallam Co. Board of Commissioners; Connie BEAUVAIS, Port of Port Angeles; Heath Heikkila, American Forest Resource Council; Bill Turner, Sierra Pacific Industries; Doug Cooper, Hampton Lumber Company; Russ Pfeiffer-Hoyt, Washington State School Directors' Association (WSSDA); John Worthington; Elaine Oneil; Eric Fitch, Washington Public Ports Association.

OTHER: Paul Jewell, Washington State Association of Counties; Adam Eitmann, Washington State Department of Ecology.

Persons Signed In To Testify But Not Testifying: No one.