

2SHB 2481 - S COMM AMD
By Committee on Ways & Means

ADOPTED 03/03/2010

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that the utilization
4 of forest biomass materials located on state lands will assist in
5 achieving the purposes of the forest biomass energy demonstration
6 project under RCW 43.30.835, facilitate and support the emerging forest
7 biomass market and clean energy economy, and enable the department to
8 encourage biomass energy development on state trust lands for the trust
9 land's potential long-term benefits to trust beneficiaries. The
10 legislature finds that biomass utilization on state forest lands must
11 be accomplished in a manner that retains organic components of the
12 forest necessary to restore or sustain forest ecological functions.

13 NEW SECTION. **Sec. 2.** (1) The department may maintain a list of
14 all potential sources of forest biomass on state lands for the purposes
15 of identifying and making forest biomass, as defined in RCW 79.02.010,
16 available for sale, exploration, collection, processing, storage,
17 stockpiling, and conversion into energy, biofuels, for use in a
18 biorefinery, or any other similar use. Prior to entering an agreement
19 authorized by section 3(1) or 4 of this act, the department shall
20 complete an inventory of the available biomass in the area that will be
21 subject to the agreement, except that no inventory will be required as
22 a prerequisite for demonstration projects authorized pursuant to RCW
23 43.30.835. The inventory must contain, at a minimum, an estimated
24 amount of the forest biomass available in the area that will be subject
25 to the agreement and a determination of the ecological and operational
26 sustainability of the volumetric limit established by the agreement
27 under section 3(5) of this act.

28 (2) The data developed for each inventoried area will be compiled
29 for the list authorized by this section. In order to utilize the list

1 to limit or terminate any agreement authorized under this act, the
2 department must determine that the overall supply of forest biomass in
3 a region or watershed has been reduced to a point such that further
4 exploration and collection of forest biomass may not be ecologically or
5 operationally sustainable or might otherwise threaten long-term forest
6 health.

7 NEW SECTION. **Sec. 3.** (1) The department is authorized to enter
8 forest biomass supply contracts on terms and conditions acceptable to
9 the department for terms of up to five years, except as provided in
10 subsection (4) of this section, for the purpose of providing a supply
11 of forest biomass during the term of the contract except as the term of
12 the contract may be limited under subsection (2) of this section,
13 provided that such a contract must terminate automatically upon the
14 removal of the agreed volume of biomass and the completion of other
15 conditions of the contract.

16 (2) The department may authorize the sale of forest biomass in a
17 contract for the sale of valuable materials under chapter 79.15 RCW
18 provided that the department complies with the provisions of this
19 chapter and: (a) Requires a separate bid and selects an apparent
20 highest bidder for the forest biomass separately from the sale of
21 valuable materials; (b) expressly includes forest biomass as an element
22 of the sale of the valuable materials to be sold in the sales contract;
23 or (c) a combination of (a) and (b) of this subsection. The term of
24 the contract for the removal of biomass, if the sale is made in
25 conformance with this subsection, must not exceed the term of the
26 contract for valuable materials sold under chapter 79.15 RCW.

27 (3) The department may: (a) Enter into direct sales contracts for
28 forest biomass, without public auction, based upon procedures adopted
29 by the board to ensure competitive market prices and accountability; or
30 (b) enter into contracts for forest biomass at public auction or by
31 sealed bid to the highest bidder in a manner consistent with the sale
32 procedures established for the sale of valuable materials in chapter
33 79.15 RCW or as may be adopted by the board.

34 (4) In the event a contracting entity makes a qualifying capital
35 investment of fifty million dollars or more, the department may enter
36 into an agreement for up to fifteen years. Such an agreement must
37 include provisions that are periodically adjusted for market

1 conditions. In addition, the conditions of the contract must include
2 provisions that allow the department, when in the best interest of
3 trust beneficiaries, to maintain the availability of biomass resources
4 on state lands to existing pulp and paper operations or other existing
5 biomass processing operations that are using such resources, in
6 quantities typical for the period of five years preceding the effective
7 date of this section. For the purposes of this section, "qualifying
8 capital investment" means a planned and committed investment at the
9 time the contract is set with the requirement that at least fifty
10 million dollars be invested before the removal of any biomass under the
11 contract.

12 (5) The department must specify in each contract an annual
13 volumetric limit of the total cubic volume or tons of forest biomass to
14 be supplied from a specific unit, geographically delineated area, or
15 region within a watershed or watersheds on an ecologically and
16 operationally sustainable basis. The department shall adopt general
17 procedures for making the biomass supply availability determinations
18 under this subsection. The procedures must be written to ensure that
19 biomass utilization on forest lands managed by the department is
20 accomplished in a manner that retains organic components of the forest
21 necessary to restore or sustain forest ecological functions. The
22 department shall develop utilization standards and operational methods
23 in recognition of the variability of on-site conditions. The
24 department may unilaterally amend the volume to be supplied by
25 providing the contracting party with a minimum of six months notice
26 prior to reducing the contract volume to be supplied if the department
27 determines, under section 2 of this act, that the available supply has
28 been reduced to a point such that further removal of forest biomass may
29 not be ecologically or operationally sustainable or may adversely
30 affect long-term forest health.

31 (6) At the expiration of the contract term, the department may
32 renew the contract for up to three additional five year periods on
33 terms and conditions acceptable to the department, if the department
34 finds: (a) An ecologically and operationally sustainable supply of
35 forest biomass is available for the term of the contract; (b) the
36 payment under the contract represents the fair market value at the time
37 of the renewal; and (c) the purchaser agrees to the estimated amount of
38 biomass material available.

1 (7) Where the department sells forest biomass in a contract for
2 sale of valuable materials under subsection (2) of this section, any
3 valuable material conveyed as timber in such a contract must count
4 toward the achievement of annual or decadal targets developed in the
5 sustainable timber harvest calculation required by RCW 79.10.320, or
6 similar targets for timber harvest volume, even where the purchaser
7 uses that material as a biomass energy feedstock. All other biomass
8 volume conveyed as authorized in this chapter must not be counted
9 toward such sustainable timber harvest targets.

10 (8) All contractors and their operations authorized under this
11 section shall comply with all applicable state and federal laws and
12 regulations.

13 NEW SECTION. **Sec. 4.** The department is authorized to lease state
14 lands for the purpose of the sale, exploration, collection, processing,
15 storage, stockpiling, and conversion of biomass into energy or
16 biofuels, the development of a biorefinery, or for any other resource
17 use derived from biomass if the department is able to obtain a fair
18 market rental return to the state or the appropriate constitutional or
19 statutory trust and if the lease is in the best interest of the state
20 and the affected trust, as follows:

21 (1) Leases authorized under this chapter may be entered into by
22 public auction, in accordance with the provisions of RCW 79.13.140, or
23 by negotiation.

24 (2) All leases must contain such terms and conditions as may be
25 prescribed by the department in accordance with the provision of this
26 act and to ensure that removal of forest biomass is ecologically and
27 operationally sustainable. Leases authorized under this act may be for
28 a term of no more than fifty years.

29 (3) For leases that involve the development of biomass processing,
30 biofuel manufacturing, or biomass energy production facilities, the
31 department may include provisions for reduced rent until an approved
32 plan of development is completed and the facility is operational,
33 provided that provisions are included to require: (a) Adequate
34 assurances to protect the department's interest in a future rental
35 income stream; (b) the demonstration of reasonable progress consistent
36 with an approved plan of development; and (c) a lump sum payment to the

1 department in the amount of the difference between the fair market rent
2 and the reduced rent, if the approved plan of development is not
3 completed in the time required in the plan.

4 (4) The department may require the payment of production rent or
5 other compensation for the use of the land and biomass materials on the
6 land. If the department is not entering a supply contract under
7 section 3 of this act for any forest biomass to be supplied for the
8 lease purposes from the leased land, then the department must require
9 a royalty payment for the contribution to value of any product created
10 by the lessee that is associated with forest biomass removed from the
11 leased land in an amount fixed by the board.

12 (5) All lessees and their operations authorized under this section
13 shall comply with all applicable state and federal laws and
14 regulations.

15 NEW SECTION. **Sec. 5.** (1) For the purpose of improving forest
16 health on state trust lands, and to better clarify the relationship of
17 forest biomass with the by-products of forest health and fuel reduction
18 treatments that have been traditionally utilized for other products,
19 the department of natural resources shall evaluate how the supply
20 agreements in sections 3 and 4 of this act could be utilized to sustain
21 or create rural jobs and timber manufacturing infrastructure, and to
22 sell state timber to traditional types of timber purchasers. The
23 department shall report its findings to the appropriate committees of
24 the legislature by December 15, 2010, and the evaluation must at a
25 minimum identify how such supply agreements could:

26 (a) Ensure the department of natural resources meets its fiduciary
27 responsibility to the state's trust beneficiaries;

28 (b) Restore or sustain a competitive market for state timber sales;

29 (c) Generate returns for the trust that are commensurate with
30 fluctuating market prices; and

31 (d) Ensure environmental compliance with all pertinent state and
32 federal laws, and provide for ecologically and operationally
33 sustainable biomass removal.

34 (2) For the purposes of proving the concepts evaluated in this
35 section, the department may, in addition to the authorities granted in
36 section 3 of this act, establish a five-year forest health and fuel
37 reduction supply agreement demonstration project. Solicitation of

1 private industry partners for such a project must be competitive, must
2 focus on areas where traditional forest products manufacturing
3 infrastructure and rural jobs have been lost, and should consider
4 prioritizing partners utilizing materials for both traditional forest
5 products and biomass energy conversion.

6 **Sec. 6.** RCW 79.02.010 and 2004 c 199 s 201 are each amended to
7 read as follows:

8 The definitions in this section apply throughout this title unless
9 the context clearly requires otherwise.

10 (1) "Aquatic lands" means all state-owned tidelands, shorelands,
11 harbor areas, and the beds of navigable waters as defined in (~~chapter~~
12 ~~79.90~~) RCW 79.105.060 that are administered by the department.

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

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

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

17 (5) "Department" means the department of natural resources.

18 (6) "Improvements" means anything considered a fixture in law
19 placed upon or attached to lands administered by the department that
20 has changed the value of the lands or any changes in the previous
21 condition of the fixtures that changes the value of the lands.

22 (7) "Land bank lands" means lands acquired under RCW 79.19.020.

23 (8) "Person" means an individual, partnership, corporation,
24 association, organization, cooperative, public or municipal
25 corporation, or agency of a federal, state, or local governmental unit,
26 however designated.

27 (9) "Public lands" means lands of the state of Washington
28 administered by the department including but not limited to state
29 lands, state forest lands, and aquatic lands.

30 (10) "State forest lands" means lands acquired under RCW 79.22.010,
31 79.22.040, and 79.22.020.

32 (11) "State lands" includes:

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

35 (b) University lands, that is, lands held in trust for university
36 purposes;

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

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

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

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

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

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

15 (12) "Valuable materials" means any product or material on the
16 lands, such as forest products, forage or agricultural crops, stone,
17 gravel, sand, peat, and all other materials of value except: (a)
18 Mineral, coal, petroleum, and gas as provided for under chapter 79.14
19 RCW; and (b) forest biomass as provided for under chapter 79.-- RCW
20 (the new chapter created in section 14 of this act).

21 (13)(a) "Forest biomass" means the by-products of: Current forest
22 management activities; current forest protection treatments prescribed
23 or permitted under chapter 76.04 RCW; or the by-products of forest
24 health treatment prescribed or permitted under chapter 76.06 RCW.

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

31 **Sec. 7.** RCW 43.30.020 and 2009 c 163 s 6 are each amended to read
32 as follows:

33 The definitions in this section apply throughout this chapter
34 unless the context clearly requires otherwise.

35 (1) "Administrator" means the administrator of the department of
36 natural resources.

1 (2) "Agency" and "state agency" means any branch, department, or
2 unit of the state government, however designated or constituted.

3 (3) "Board" means the board of natural resources.

4 (4) "Commissioner" means the commissioner of public lands.

5 (5) "Department" means the department of natural resources.

6 (6) (~~"Forest biomass" means the by products of: Current forest
7 practices prescribed or permitted under chapter 76.09 RCW; current
8 forest protection treatments prescribed or permitted under chapter
9 76.04 RCW; or the by products of forest health treatments prescribed or
10 permitted under chapter 76.06 RCW. "Forest biomass" does not include
11 wood pieces that have been treated with chemical preservatives such as:
12 Creosote, pentachlorophenol, or copper-chrome-arsenic; wood from old
13 growth forests, except wood removed for forest health treatments under
14 chapter 76.06 RCW and RCW 79.15.540; wood required by chapter 76.09 RCW
15 for large woody debris recruitment; or municipal solid waste.~~

16 (+7)) "Supervisor" means the supervisor of natural resources.

17 **Sec. 8.** RCW 76.06.180 and 2007 c 480 s 7 are each amended to read
18 as follows:

19 (1) Prior to issuing a forest health hazard warning or forest
20 health hazard order, the commissioner shall consider the findings and
21 recommendations of the forest health technical advisory committee and
22 shall consult with county government officials, forest landowners and
23 forest land managers, consulting foresters, and other interested
24 parties to gather information on the threat, opportunities or
25 constraints on treatment options, and other information they may
26 provide. The commissioner, or a designee, shall conduct a public
27 hearing in a county within the geographical area being considered.

28 (2) The commissioner of public lands may issue a forest health
29 hazard warning when he or she deems such action is necessary to manage
30 the development of a threat to forest health or address an existing
31 threat to forest health. A decision to issue a forest health hazard
32 warning may be based on existing forest stand conditions and:

33 (a) The presence of an uncharacteristic insect or disease outbreak
34 that has or is likely to (i) spread to multiple forest ownerships and
35 cause extensive damage to forests; or (ii) significantly increase
36 forest fuel that is likely to further the spread of uncharacteristic
37 fire;

1 (b) When, due to extensive physical damage from wind or ice storm
2 or other cause, there are (i) insect populations building up to large
3 scale levels; or (ii) significantly increased forest fuels that are
4 likely to further the spread of uncharacteristic fire; or

5 (c) When otherwise determined by the commissioner to be
6 appropriate.

7 (3) The commissioner of public lands may issue a forest health
8 hazard order when he or she deems such action is necessary to address
9 a significant threat to forest health. A decision to issue a forest
10 health hazard order may be based on existing forest stand conditions
11 and:

12 (a) The presence of an uncharacteristic insect or disease outbreak
13 that has (i) spread to multiple forest ownerships and has caused and is
14 likely to continue to cause extensive damage to forests; or (ii)
15 significantly increased forest fuels that are likely to further the
16 spread of uncharacteristic fire;

17 (b) When, due to extensive physical damage from wind or ice storm
18 or other cause (i) insect populations are causing extensive damage to
19 forests; or (ii) significantly increased forest fuels are likely to
20 further the spread of uncharacteristic fire;

21 (c) Insufficient landowner action under a forest health hazard
22 warning; or

23 (d) When otherwise determined by the commissioner to be
24 appropriate.

25 (4) A forest health hazard warning or forest health hazard order
26 shall be issued by use of a commissioner's order. General notice of
27 the commissioner's order shall be published in a newspaper of general
28 circulation in each county within the area covered by the order and on
29 the department's web site. The order shall specify the boundaries of
30 the area affected, including federal and tribal lands, the forest stand
31 conditions that would make a parcel subject to the provisions of the
32 order, and the actions landowners or land managers should take to
33 reduce the hazard. If the forest health hazard warning or order
34 relates to land managed by the department, the warning or order may
35 also contain provisions for the department's utilization of any forest
36 biomass pursuant to chapter 79.-- RCW (the new chapter created in
37 section 14 of this act).

1 (5) Written notice of a forest health hazard warning or forest
2 health hazard order shall be provided to forest landowners of
3 specifically affected property.

4 (a) The notice shall set forth:

5 (i) The reasons for the action;

6 (ii) The boundaries of the area affected, including federal and
7 tribal lands;

8 (iii) Suggested actions that should be taken by the forest
9 landowner under a forest health hazard warning or the actions that must
10 be taken by a forest landowner under a forest health hazard order;

11 (iv) The time within which such actions should or must be taken;

12 (v) How to obtain information or technical assistance on forest
13 health conditions and treatment options;

14 (vi) The right to request mitigation under subsection (6) of this
15 section and appeal under subsection (7) of this section;

16 (vii) These requirements are advisory only for federal and tribal
17 lands.

18 (b) The notice shall be served by personal service or by mail to
19 the latest recorded real property owner, as shown by the records of the
20 county recording officer as defined in RCW 65.08.060. Service by mail
21 is effective on the date of mailing. Proof of service shall be by
22 affidavit or declaration under penalty of perjury.

23 (6) Forest landowners who have been issued a forest health hazard
24 order under subsection (5) of this section may apply to the department
25 for the remission or mitigation of such order. The application shall
26 be made to the department within fifteen days after notice of the order
27 has been served. Upon receipt of the application, the department may
28 remit or mitigate the order upon whatever terms the department in its
29 discretion deems proper, provided the department deems the remission or
30 mitigation to be in the best interests of carrying out the purposes of
31 this chapter. The department may ascertain the facts regarding all
32 such applications in such reasonable manner and under such rule as it
33 deems proper.

34 (7) Forest landowners who have been issued a forest health hazard
35 order under subsection (5) of this section may appeal the order to the
36 forest practices appeals board.

37 (a) The appeal shall be filed within thirty days after notice of
38 the order has been served, unless application for mitigation has been

1 made to the department. When such an application for mitigation is
2 made, such appeal shall be filed within thirty days after notice of the
3 disposition of the application for mitigation has been served.

4 (b) The appeal must set forth:

5 (i) The name and mailing address of the appellant;

6 (ii) The name and mailing address of the appellant's attorney, if
7 any;

8 (iii) A duplicate copy of the forest health hazard order;

9 (iv) A separate and concise statement of each error alleged to have
10 been committed;

11 (v) A concise statement of facts upon which the appellant relies to
12 sustain the statement of error; and

13 (vi) A statement of the relief requested.

14 (8) A forest health hazard order issued under subsection (5) of
15 this section is effective thirty days after date of service unless
16 application for remission or mitigation is made or an appeal is filed.
17 When an application for remission or mitigation is made, the order is
18 effective thirty days after notice setting forth the disposition of the
19 application is served unless an appeal is filed from such disposition.
20 Whenever an appeal of the order is filed, the order shall become
21 effective only upon completion of all administrative and judicial
22 review proceedings and the issuance of a final decision confirming the
23 order in whole or in part.

24 (9) Upon written request, the department may certify as adequate a
25 forest health management plan developed by a forest landowner, before
26 or in response to a forest health hazard warning or forest health
27 hazard order, if the plan is likely to achieve the desired result and
28 the terms of the plan are being diligently followed by the forest
29 landowner. The certification of adequacy shall be determined by the
30 department in its sole discretion, and be provided to the requestor in
31 writing.

32 **Sec. 9.** RCW 79.15.100 and 2004 c 177 s 5 are each amended to read
33 as follows:

34 (1) Valuable materials may be sold separately from the land as a
35 "lump sum sale" or as a "scale sale."

36 (a) "Lump sum sale" means any sale offered with a single total
37 price applying to all the material conveyed.

1 (b) "Scale sale" means any sale offered with per unit prices to be
2 applied to the material conveyed.

3 (2) Payment for lump sum sales must be made as follows:

4 (a) Lump sum sales under five thousand dollars appraised value
5 require full payment on the day of sale.

6 (b) Lump sum sales appraised at over five thousand dollars but
7 under one hundred thousand dollars may require full payment on the day
8 of sale.

9 (c) Lump sum sales requiring full payment on the day of sale may be
10 paid in cash or by certified check, cashier's check, bank draft, or
11 money order, all payable to the department.

12 (3) Except for sales paid in full on the day of sale or sales with
13 adequate bid bonds, an initial deposit not to exceed twenty-five
14 percent of the actual or projected purchase price shall be made on the
15 day of sale.

16 (a) Sales with bid bonds are subject to the day of sale payment and
17 replacement requirements prescribed by RCW 79.15.110.

18 (b) The initial deposit must be maintained until all contract
19 obligations of the purchaser are satisfied. However, all or a portion
20 of the initial deposit may be applied as the final payment for the
21 valuable materials in the event the department determines that adequate
22 security exists for the performance or fulfillment of any remaining
23 obligations of the purchaser under the sale contract.

24 (4) Advance payments or other adequate security acceptable to the
25 department is required for valuable materials sold on a scale sale
26 basis or a lump sum sale not requiring full payment on the day of sale.

27 (a) The purchaser must notify the department before any operation
28 takes place on the sale site.

29 (b) Upon notification as provided in (a) of this subsection, the
30 department must require advanced payment or may allow purchasers to
31 submit adequate security.

32 (c) The amount of advanced payments or security must be determined
33 by the department and must at all times equal or exceed the value of
34 timber cut and other valuable materials processed or removed until paid
35 for.

36 (d) Security may be bank letters of credit, payment bonds,
37 assignments of savings accounts, assignments of certificates of

1 deposit, or other methods acceptable to the department as adequate
2 security.

3 (5) All valuable material must be removed from the sale area within
4 the period specified in the contract.

5 (a) The specified period may not exceed five years from date of
6 purchase except for stone, sand, gravel, fill material, or building
7 stone.

8 (b) The specified period for stone, sand, gravel, fill material, or
9 building stone may not exceed thirty years.

10 (c) In all cases, any valuable material not removed from the land
11 within the period specified in the contract reverts to the state. The
12 department may utilize any remaining forest biomass in accordance with
13 chapter 79.-- RCW (the new chapter created in section 14 of this act).

14 (6) The department may extend a contract beyond the normal
15 termination date specified in the sale contract as the time for removal
16 of valuable materials when, in the department's judgment, the purchaser
17 is acting in good faith and endeavoring to remove the materials. The
18 extension is contingent upon payment of the fees specified below.

19 (a) The extended time for removal shall not exceed:

20 (i) Forty years from date of purchase for stone, sand, gravel, fill
21 material, or building stone;

22 (ii) A total of ten years beyond the original termination date for
23 all other valuable materials.

24 (b) An extension fee fixed by the department will be charged based
25 on the estimated loss of income per acre to the state resulting from
26 the granting of the extension plus interest on the unpaid portion of
27 the contract. The board must periodically fix and adopt by rule the
28 interest rate, which shall not be less than six percent per annum.

29 (c) The sale contract shall specify:

30 (i) The applicable rate of interest as fixed at the day of sale and
31 the maximum extension payment; and

32 (ii) The method for calculating the unpaid portion of the contract
33 upon which interest is paid.

34 (d) The minimum extension fee is fifty dollars per extension plus
35 interest on the unpaid portion of the contract.

36 (e) Moneys received for any extension must be credited to the same
37 fund in the state treasury as was credited the original purchase price
38 of the valuable material sold.

1 (7) The department may, in addition to any other securities,
2 require a performance security to guarantee compliance with all
3 contract requirements. The security is limited to those types listed
4 in subsection (4) of this section. The value of the performance
5 security will, at all times, equal or exceed the value of work
6 performed or to be performed by the purchaser.

7 (8) The department does not need to comply with the provisions of
8 this chapter for forest biomass except as described in the provisions
9 of chapter 79.-- RCW (the new chapter created in section 14 of this
10 act). Forest biomass may not be included in any sales contract
11 authorized under this chapter unless the department has complied with
12 the provisions of chapter 79.-- RCW (the new chapter created in section
13 14 of this act).

14 (9) The provisions of this section apply unless otherwise provided
15 by statute.

16 **Sec. 10.** RCW 79.15.220 and 2001 c 250 s 14 are each amended to
17 read as follows:

18 When the department finds valuable materials on state land that are
19 damaged by fire, wind, flood, or from any other cause, it shall
20 determine if the salvage of the damaged valuable materials is in the
21 best interest of the trust for which the land is held, which may
22 include the salvage of forest biomass under chapter 79.-- RCW (the new
23 chapter created in section 14 of this act). If salvaging the valuable
24 materials is in the best interest of the trust, the department shall
25 proceed to offer the valuable materials for sale. The valuable
26 materials, when offered for sale, must be sold in the most expeditious
27 and efficient manner as determined by the department. In determining
28 if the sale is in the best interest of the trust the department shall
29 consider the net value of the valuable materials and relevant elements
30 of the physical and social environment.

31 **Sec. 11.** RCW 79.15.510 and 2009 c 418 s 2 are each amended to read
32 as follows:

33 (1) The department may establish a contract harvesting program for
34 directly contracting for the removal of timber and other valuable
35 materials from state lands and for conducting silvicultural treatments
36 consistent with RCW 79.15.540.

1 (2) The contract requirements must be compatible with the office of
2 financial management's guide to public service contracts.

3 (3) The department may not use contract harvesting for more than
4 twenty percent of the total annual volume of timber offered for sale.
5 However, volume removed primarily to address an identified forest
6 health issue under RCW 79.15.540 may not be included in calculating the
7 (~~ten~~ ~~[twenty]~~ percent) annual limit of contract harvesting sales.
8 Forest biomass resulting from harvesting to address an identified
9 forest health issue under RCW 79.15.540 may be utilized in accordance
10 with chapter 79.-- RCW (the new chapter created in section 14 of this
11 act).

12 **Sec. 12.** RCW 79.15.510 and 2004 c 218 s 6 are each amended to read
13 as follows:

14 (1) The department may establish a contract harvesting program for
15 directly contracting for the removal of timber and other valuable
16 materials from state lands and for conducting silvicultural treatments
17 consistent with RCW 79.15.540.

18 (2) The contract requirements must be compatible with the office of
19 financial management's guide to public service contracts.

20 (3) The department may not use contract harvesting for more than
21 ten percent of the total annual volume of timber offered for sale.
22 However, volume removed primarily to address an identified forest
23 health issue under RCW 79.15.540 may not be included in calculating the
24 (~~ten~~ percent) annual limit of contract harvesting sales. Forest
25 biomass resulting from harvesting to address an identified forest
26 health issue under RCW 79.15.540 may be utilized in accordance with
27 chapter 79.-- RCW (the new chapter created in section 14 of this act).

28 NEW SECTION. **Sec. 13.** The department of natural resources must
29 conduct a survey of scientific literature regarding the carbon
30 neutrality of forest biomass. The department must submit the survey
31 results with any findings and recommendations to the appropriate
32 committees of the legislature by December 15, 2010.

33 This section expires January 1, 2011.

34 NEW SECTION. **Sec. 14.** Sections 1 through 5 of this act constitute
35 a new chapter in Title 79 RCW.

1 NEW SECTION. **Sec. 15.** Section 11 of this act expires January 1,
2 2014.

3 NEW SECTION. **Sec. 16.** Section 12 of this act takes effect January
4 1, 2014."

2SHB 2481 - S COMM AMD
By Committee on Ways & Means

ADOPTED 03/03/2010

5 On page 1, line 2 of the title, after "agreements;" strike the
6 remainder of the title and insert "amending RCW 79.02.010, 43.30.020,
7 76.06.180, 79.15.100, 79.15.220, 79.15.510, and 79.15.510; adding a new
8 chapter to Title 79 RCW; creating a new section; providing an effective
9 date; and providing expiration dates."

EFFECT: Allows the department to enter into contract terms up to
15 years when an entity plans and commits to a capital investment of at
least 50 million dollars prior to the contract and completes that
investment prior to removal of biomass under the contract. Allows the
department to include provisions in the agreement that are periodically
adjusted for market conditions. Requires the contract to include
provisions that allow the department, when it is in the best interest
of the trust beneficiaries, to maintain access to existing users of
biomass. Ensures that biomass volume conveyed under this chapter will
not be counted toward the department's sustainable harvest target,
except that appraised timber sold in a conventional timber sale will
count toward the target whether individual trees are ultimately used by
that purchaser for timber or biomass energy. Excludes wood from
existing old growth forests from the definition of forest biomass.

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