

HOUSE BILL REPORT

HB 2481

As Reported by House Committee On:
Technology, Energy & Communications
General Government Appropriations

Title: An act relating to the department of natural resources authority to enter into forest biomass supply agreements.

Brief Description: Authorizing the department of natural resources to enter into forest biomass supply agreements.

Sponsors: Representatives Van De Wege, Kretz, Blake, Hinkle, Ormsby, Dunshee, McCoy, Eddy, Upthegrove, Carlyle, Haler, Morrell, Warnick and Kessler; by request of Commissioner of Public Lands.

Brief History:

Committee Activity:

Technology, Energy & Communications: 1/13/10, 1/20/10 [DPS];
General Government Appropriations: 2/2/10, 2/4/10 [DP2S(w/o sub TEC)].

Brief Summary of Second Substitute Bill

- Authorizes the Department of Natural Resources (DNR) to maintain a list of all potential sources of forest biomass on state lands for the purposes of identifying and making forest biomass available for the conversion into energy, biofuels, or any other similar use.
- Permits the DNR to enter into contracts for the purpose of providing a supply of forest biomass from lands managed by the DNR.
- Authorizes the DNR to lease state lands for the conversion of biomass into energy or biofuels, for the development of a biorefinery, or for any other use derived from biomass.
- Authorizes the DNR to establish a five-year forest health and fuel reduction supply agreement demonstration project.

HOUSE COMMITTEE ON TECHNOLOGY, ENERGY & COMMUNICATIONS

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

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 16 members: Representatives McCoy, Chair; Finn, Vice Chair; Crouse, Ranking Minority Member; Haler, Assistant Ranking Minority Member; Carlyle, Condotta, Eddy, Hasegawa, Hinkle, Hudgins, Jacks, Morris, Nealey, Takko, Taylor and Van De Wege.

Minority Report: Do not pass. Signed by 1 member: Representative McCune.

Staff: Scott Richards (786-7156).

Background:

State Trust Lands.

The Department of Natural Resources (DNR) supports income generation on the 3 million acres of state trust lands statewide. Of these, 2.1 million acres are forests and 1.2 million are agricultural, grazing, and range lands (420,000 acres of range are also counted as forest). The DNR provides oversight on state-owned trust lands in the areas of: timber sales; agriculture leasing; commercial real estate; rock, sand, and gravel; minerals and mining; oil and gas exploration; communication sites; rights of way; and specialized forest products.

Due to a mix of authorities, including state law, the state Constitution, and the state's federal Enabling Act, these lands are held by the state in trust for specified trust beneficiaries. In total, there are 18 trust beneficiaries that derive some level of economic benefit from the management of these trust lands. The beneficiaries include common schools, the state universities, community colleges, counties, and the state's Capital Budget.

Sale of Valuable Materials from State Forest Lands.

The DNR sells the majority of timber from state forest lands by putting tracts of timber up for bid. The DNR establishes an appraised value for the timber based on current market prices, and this value becomes the minimum bid for the timber sale. The successful bidder who is awarded the contract generally has three years to harvest the timber from the sale.

Under current law, the DNR has the authority to directly contract for the harvest of up to 20 percent of the total annual volume of timber offered for sale from state forest lands. All receipts from the gross proceeds of logs that are harvested under the contract harvesting program are deposited into the Contract Harvest Revolving Account (Account). The Board of Natural Resources has oversight of the Account. Monies in the Account in excess of \$5 million must be disbursed to the trust beneficiaries in accordance with existing procedures.

Forest Biomass Demonstration Projects.

In 2009 the Legislature authorized the DNR to develop and implement two forest biomass energy demonstration projects: one east of the crest of the Cascade mountains and one west of the crest of the Cascade mountains. The demonstration projects must be designed to:

- reveal the utility of Washington's public and private forest biomass feedstock;
- create green jobs and generate renewable energy;

- generate revenues or improve asset values for beneficiaries of state lands and state forest lands;
- improve forest health, reduce pollution, and restore ecological function; and
- avoid interfering with the current working area for forest biomass collection surrounding an existing fixed location biomass energy production site.

To develop and implement the forest biomass energy demonstration projects, the DNR is authorized to form forest biomass energy partnerships or cooperatives. The preferred model being public-private partnerships focused on convening the entities necessary to grow, harvest, process, transport, and utilize forest biomass to generate renewable energy.

Summary of Substitute Bill:

List of Potential Forest Biomass Energy Resources of State Lands.

The DNR is authorized to maintain a list of all potential sources of forest biomass on state lands for the purposes of identifying and making forest biomass available for sale, exploration, collection, processing, storage, stockpiling, and conversion into energy, biofuels, or any other similar use. The DNR may use the list to establish available supply limitations in order to limit the sale of forest biomass if the exploration and collection of forest biomass is not sustainable or threatens long-term forest health. The DNR may adopt general procedures for determining biomass supply availability.

Contracting for Forest Biomass.

The DNR may enter into contracts for the purpose of providing a supply of forest biomass. The DNR may enter into forest biomass supply contracts for a term of up to 5 years or upon the removal of the agreed volume of biomass and the completion of other conditions of the contract.

Also, the DNR may enter into a contract for the sale of biomass energy as a valuable material. For forest biomass sales involving a contract for the sale of valuable materials, the DNR must comply with statutory provisions relating to the sale of valuable materials; and either: (1) require a separate bid and select the highest bidder for the forest biomass separately from the sale of valuable materials; (2) expressly include forest biomass as an element of the sale of the valuable materials to be sold in the sales contract; or (3) a combination of options one and two.

Additionally, the DNR may enter into either: (1) direct sales contracts for forest biomass, without public auction, based upon procedures adopted by the Board of Natural Resources (Board) to ensure competitive market prices and accountability; or (2) contracts for forest biomass at public auction or by sealed bid to the highest bidder. The Board may adopt sale procedures to allow the DNR to enter into sale contracts for forest biomass with or without a public auction.

Annual Volumetric Limits.

The DNR must specify in each biomass supply contract an annual volumetric limit of forest biomass to be supplied from a specific unit, geographically delineated area, or region within a watershed or watersheds on an ecologically and operationally sustainable basis. If the DNR determines that the available forest biomass supply may not be sustainable or may adversely affect long-term forest health, the DNR may unilaterally amend, with appropriate notice, the volume to be supplied by providing the contracting party.

Renewal of Biomass Supply Contracts.

The DNR may renew a biomass supply contract for up to three additional five-year periods, if the DNR finds: (1) a sustainable supply of forest biomass is available for the term of the contract; (2) the payment under the contract represents the fair market value at the time of the renewal; and (3) the purchaser agrees to the estimated amount of biomass material available.

Leasing of State Lands for Forest Biomass Energy Resources.

The DNR is authorized to lease state lands for the purpose of the supply of biomass energy, the development of a biorefinery, or for any other use derived from biomass. Leases may be entered into by public auction or by negotiation. Leases may be for a term of up to 50 years. For leases that involve the development of biomass processing, biofuel manufacturing, or biomass energy production facilities, the DNR may include provisions for reduced rent until the facility is operational. All forest biomass contractors and their operations, as well as all lessees and their operations, are required to comply with all applicable state and federal laws and regulations.

Reporting Requirements.

The DNR must evaluate and report to the Legislature, by December 15, 2010, its findings of how biomass supply agreements could be utilized to sustain or create rural jobs and timber manufacturing infrastructure, and to sell state timber to traditional timber purchasers.

Forest Health Supply Agreement Demonstration Project.

The DNR is authorized to establish a forest health supply agreement demonstration project for the purposes of showing how biomass supply agreements could be utilized to sustain or create rural jobs and timber manufacturing infrastructure, and to sell state timber to traditional timber purchasers.

Definitions of Valuable Materials and Forest Biomass.

The definition of valuable materials under the Public Management Lands Act is amended to include forest biomass. Forest biomass is defined as the by-products current forest management activities, by-products of forest practices prescribed or permitted under the Forest Protection Act, or the by-products of forest health treatments prescribed or permitted under the Forest Insect and Disease Control Act.

Substitute Bill Compared to Original Bill:

The DNR is required to evaluate and report to the Legislature, by December 15, 2010, its findings of how biomass supply agreements could be utilized to sustain or create rural jobs and timber manufacturing infrastructure, and to sell state timber to traditional timber purchasers. The DNR is authorized to establish a forest health supply agreement demonstration project for the purposes of showing how biomass supply agreements could be utilized to sustain or create rural jobs and timber manufacturing infrastructure, and to sell state timber to traditional timber purchasers. All forest biomass contractors and their operations, as well as all lessees and their operations, must comply with all applicable state and federal laws and regulations. Specific reference to the Forest Practices Act in the definition of "forest biomass" is removed.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except section 13, relating to forest biomass harvesting resulting from forest health issues, which takes effect January 1, 2014.

Staff Summary of Public Testimony:

(In support) In developing forest biomass energy pilot projects in Washington and engaging with forest biomass energy stakeholders, the DNR determined that for potential projects to be successful, reliable supplies of forest biomass must be secured. This bill expands the DNR's ability to enter into contracts to extract forest biomass from DNR managed lands. This policy is a good opportunity to create and maintain forestry related jobs. This bill lays the foundation for potentially using national forest lands in a similar manner.

(In support with concerns) In establishing available supply limitations for forest biomass, the DNR should address concerns about how to sustainably harvest forest biomass without depleting forest and ecological health. It is not clear how increased truck traffic related to this new activity will degrade logging roads and how will the money be raised to maintain roads in response to increased traffic.

(With concerns) In contracting for these new biomass energy activities on DNR managed forest lands, the DNR needs to be aware of existing users of forest resources and how they may be hurt by the development on this new policy.

Persons Testifying: (In support) Peter Goldmark and Craig Partridge, Department of Natural Resources; and Bob Guenther, International Brotherhood of Electric Workers 77.

(In support with concerns) Stephen Bernath, Department of Ecology.

(With concerns) Tim Boyd, Vaagen Brothers, Boise Cascade, Boise Paper.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Technology, Energy & Communications. Signed by 14 members: Representatives Darneille, Chair; Takko, Vice Chair; Armstrong, Assistant Ranking Minority Member; Blake, Crouse, Dunshee, Hudgins, Kenney, Klippert, Pedersen, Sells, Short, Van De Wege and Williams.

Minority Report: Do not pass. Signed by 1 member: Representative McCune, Ranking Minority Member.

Staff: Owen Rowe (786-7391).

Summary of Recommendation of Committee On General Government Appropriations Compared to Recommendation of Committee On Technology, Energy & Communications:

The second substitute bill specifies that before entering a contract or a state land lease agreement for forest biomass supply, the Department of Natural Resources (DNR) must complete an inventory of the available forest biomass in the area that will be subject to these agreements. Forest biomass demonstration projects are exempted from the inventory of the available forest biomass requirement for forest biomass supply contract and state land lease agreements. The inventory of the available forest biomass must contain, at a minimum, an estimated amount of the forest biomass available in the area that will be subject to the agreement, and a determination of the ecological and operational sustainability of the volumetric limit established by the agreement. Data developed for each inventoried area will be compiled and used to develop a list of all potential sources of forest biomass on state lands.

In order for the DNR to utilize the inventory to limit or terminate any agreement, the DNR must determine that the overall supply of forest biomass in the region or watershed has been reduced to a point such that further exploration and collection of forest biomass may not be ecologically or operationally sustainable or might otherwise threaten long-term forest health. The DNR is required to adopt general procedures for making forest biomass supply availability determination, rather than leaving it to the discretion of the agency. Biomass utilization on DNR-managed forest lands must be accomplished in a manner that retains organic components of the forest necessary to restore or sustain forest ecological functions, and the DNR is required to develop utilization standards and operational methods in recognition of the variability of on-site conditions, rather than leaving it to the discretion of the agency.

The DNR is directed to evaluate how forest biomass supply agreements could be used to sustain or create rural jobs and timber manufacturing infrastructure, and to clarify the relationship of forest biomass with the byproducts of forest health and fuel reduction treatments that have been traditionally used for other products. The second substitute bill removes provisions that allow snags, felled for fire control purposes and that are not required to be left on-site on the DNR managed lands, to be used for purposes of providing a supply of forest biomass.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except section 12, relating to forest biomass harvesting resulting from forest health issues, which takes effect January 1, 2014.

Staff Summary of Public Testimony:

(In support) This bill represents the second stage of the Department of Natural Resources' (DNR) biomass initiative. Last year, the DNR began four pilot projects to convert waste from forest operations into renewable energy products. This bill will allow the DNR to enter into long-term contracts to support the biomass industry. The proposed second substitute is a reflection of stakeholder work with industry representatives. The biomass industry is comfortable that the proposed second substitute bill will support the development of this industry.

(Opposed) The bill talks about biomass as clean energy. This is untrue. Carbon dioxide emissions of power plants that burn forest biomass with pollution control systems turned on have an impact on global warming three times greater than a coal powered plant, and they create 304 percent more carbon dioxide than natural gas power plants. Nitrogen oxide emissions and particulates in recent medical literature have been found to have significant health effects. Burning wood is dirtier than burning coal or natural gas. Defer action on this bill as it's a bad investment of state funds and has negative effects on human health and the climate. Slash burning releases massive quantities of carbon dioxide in other parts of the world. A DNR study from November 2008 shows climate and human health impacts from the use of biomass for power production. The DNR itself has questions about this practice.

Persons Testifying: (In support) Peter Goldmark, Commissioner of Public Lands.

(Opposed) Dr. Willam Simmons; and Duff Badgley, No Biomass Burn.

Persons Signed In To Testify But Not Testifying: None.