
SENATE BILL 6539

State of Washington

65th Legislature

2018 Regular Session

By Senators Braun, Rivers, and Wilson

Read first time 01/23/18. Referred to Committee on Agriculture, Water, Natural Resources & Parks.

1 AN ACT Relating to ensuring compliance with the state's fiduciary
2 duty in managing state trust lands; adding a new section to chapter
3 79.10 RCW; and creating new sections.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that state lands, as
6 defined in RCW 79.02.010, play an important role in providing funding
7 for education and other critical state and local public institutions.
8 The department of natural resources' management of these lands is
9 important, due to the fact that every dollar that is generated from
10 state lands saves the state from expending a dollar from other
11 revenue sources. Sustainable management of these lands is consistent
12 with the legislature's intent to maintain sustainability in the
13 revenue and services provided to the benefiting institutions. The
14 portfolio of state lands and forestlands includes forestland,
15 agricultural lands, and commercial lands. In managing state lands
16 granted from the federal government, case law specifically charges
17 the state with fiduciary duties, including duties of undivided
18 loyalty and prudent management. The legislature further recognizes
19 that state lands are used for multiple purposes and provide multiple
20 benefits to the people of Washington, including recreation and other
21 public benefits, when consistent with trust obligations.

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

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

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

27 NEW SECTION. **Sec. 2.** A new section is added to chapter 79.10
28 RCW under the subchapter heading "general provisions" to read as
29 follows:

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

34 (2) By September 1, 2018, the department must evaluate its lands
35 portfolio and revenue streams, management practices, and transaction
36 processes, and develop options and recommendations to promote
37 achievement of this goal in a manner consistent with section 1 of
38 this act. In conducting this evaluation, the department must seek to
39 account for the volatility of forest product markets and consider

1 ways to mitigate the impact of market downturns on its revenues. The
2 department must provide these options and recommendations to the
3 appropriate committees of the senate and house of representatives.

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

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

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

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

22 (iii) Any other options for legislative consideration.

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

27 NEW SECTION. **Sec. 3.** The joint legislative audit and review
28 committee must develop methods or tools to estimate the current asset
29 value of state lands and forestlands, as defined in RCW 79.20.010.
30 The methods should be designed to be as accurate and resource-
31 efficient as possible and be designed to allow repeated estimates
32 over time. The methods must allow for the segregation of different
33 asset classes, and at a minimum allow for the tracking values over
34 time for the following: Forestland, irrigated agricultural land,
35 nonirrigated agricultural land, and commercial real estate land. The
36 committee may recommend other asset classes to track in addition to
37 those listed. The joint legislative audit and review committee must

1 submit a summary of its selected method or tools and an initial
2 estimate by December 1, 2021.

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