

**SHB 1789 - H AMD 186**

By Representative Reeves

WITHDRAWN 03/07/2023

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

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that there are  
4 myriad ways for the department of natural resources to generate  
5 revenue from state lands for the benefit of its beneficiaries and the  
6 state. The legislature recognizes it is in the best interest of the  
7 trust beneficiaries and the state to increase revenue opportunities,  
8 diversify the trust asset portfolio, and reduce costs. As new markets  
9 emerge, the department should be enabled to take full advantage of  
10 opportunities to diversify and grow revenue streams for beneficiaries  
11 and the state, while also reducing costs.

12 (2) The legislature finds that the trust land performance  
13 assessment, completed pursuant to section 7015, chapter 298, Laws of  
14 2018, recommends exploring opportunities to diversify funding streams  
15 for revenue generation, including utilizing carbon markets, as well  
16 as other ways to monetize ecosystem services for the beneficiaries  
17 and the state. The legislature further finds that the climate  
18 commitment act, which established a cap and invest program under  
19 chapter 70A.65 RCW, makes Washington state a leader in climate policy  
20 and, through the codification of carbon offset projects, creates a  
21 new way for revenue to be generated from lands and waters in the  
22 state. The legislature intends that the carbon offset projects  
23 established for this program benefit the people of Washington by  
24 being located on Washington lands and waters to the extent possible,  
25 rather than outside the state. To accomplish this, the department  
26 seeks the authority to sell carbon offset credits directly under the  
27 rules of the Washington state cap and invest program.

28 (3) The legislature finds that as the manager of approximately  
29 6,000,000 acres of lands and waters, the department is well suited to  
30 take actions that increase carbon sequestration and storage, generate  
31 revenue from those actions through carbon offset projects, and  
32 provide additional benefits including reforestation, forest health

1 restoration, afforestation, air and water purification, habitat  
2 creation, temperature regulation, stormwater management, and disaster  
3 mitigation.

4 (4) The legislature further finds that private industry is  
5 leading the way by entering carbon markets and that the department  
6 should have similar authority as private industry to enter carbon  
7 markets to generate revenue and reduce costs for beneficiaries and  
8 the state. For these reasons, the legislature believes the department  
9 should have the same authority to enter carbon markets as private  
10 industry for carbon offset and ecosystem services projects on state  
11 lands.

12 (5) Additionally, the legislature finds that by granting the  
13 department direct authority to enter carbon markets, the department  
14 will be able to create additional revenue streams to complement  
15 existing traditional revenue streams thereby reducing costs for  
16 beneficiaries and the state. Opportunities include projects in which  
17 the department would be able to generate revenue through the  
18 reforestation of certain postwildfire areas that otherwise would not  
19 have been replanted. These areas will regenerate more quickly and  
20 robustly than had they not been replanted, which will result in more  
21 revenue for beneficiaries from future harvests.

22 (6) The legislature also finds that forest health treatments that  
23 increase the resilience of Washington forests to wildfire may be  
24 eligible for carbon offset projects, thus creating a new source of  
25 funding for those treatments, reducing the costs to the state or  
26 beneficiaries by generating new revenue sources.

27 (7) The legislature further finds that areas that have been  
28 transferred out of trust status into natural areas or natural  
29 resource conservation areas may be eligible for carbon offset  
30 projects or other payment for ecosystem services projects, which  
31 would create a new revenue stream from lands that otherwise would not  
32 generate revenue and that the department currently incurs a cost to  
33 maintain.

34 (8) The legislature additionally finds that the department could  
35 acquire working forestlands at risk of conversion, and generate  
36 revenue for beneficiaries and for the state both through carbon  
37 offset projects having prevented the forestland from likely  
38 converting to nonforestland, and additionally through future harvests  
39 on those acquired forestlands.

1 (9) The legislature finds that similar opportunities exist in  
2 aquatic lands for kelp and eelgrass conservation and restoration  
3 projects that reduce conservation and restoration costs to the state  
4 and help to generate revenue for aquatic lands enhancement account  
5 funds for salmon habitat improvements.

6 (10) Therefore, the legislature intends to establish the direct  
7 authority for the department to generate revenue on its lands and  
8 waters through payment for ecosystem services programs including, but  
9 not limited to, carbon offset projects. Accordingly, the legislature  
10 intends to provide the department the necessary authority to create  
11 carbon offset and ecosystem services projects under the cap and  
12 invest program.

13 NEW SECTION. **Sec. 2.** The definitions in this section apply  
14 throughout this chapter unless the context clearly requires  
15 otherwise.

16 (1) "Carbon credit" means one metric ton of carbon dioxide  
17 equivalent removed from the atmosphere or prevented from being  
18 emitted into the atmosphere as a result of a carbon offset project  
19 and within a carbon market transaction.

20 (2) "Carbon offset project" has the same meaning as "offset  
21 project" as defined in RCW 70A.65.010.

22 (3)(a) "Ecosystem services" has the same meaning as defined in  
23 RCW 76.09.020.

24 (b) Examples of ecosystem services include, but are not limited  
25 to, carbon sequestration and storage, air and water filtration,  
26 climate stabilization, and disturbance mitigation.

27 (4) "Ecosystem services credit" means a predetermined and  
28 standardized unit that represents measurable ecosystem services  
29 provided in the context of a payment for an ecosystem services  
30 project.

31 (5) "Ecosystem services marketplace" has the same meaning as  
32 "ecosystem services market" as defined in RCW 76.09.020.

33 (6) "Ecosystem services project broker" means an entity that  
34 facilitates the process of matching ecosystem services providers and  
35 purchasers of ecosystem services project credits. An ecosystem  
36 services project broker may sell or procure credits on their clients'  
37 behalf and provide financing and marketing expertise. Ecosystem  
38 services project brokers may also act as ecosystem service project  
39 developers.

1 (7) "Ecosystem services project developer" means an entity that  
2 sources and initiates ecosystem services projects on behalf of the  
3 ecosystem services provider including, but not limited to, by working  
4 with ecosystem services project standards and verification bodies,  
5 bearing financial risks of projects, and working with a network of  
6 distributors and retailers to deliver auditable ecosystem services  
7 project credits to a marketplace. An ecosystem services project  
8 developer may also act as an ecosystem services project broker.

9 (8) "Payment for ecosystem services project" means a transaction  
10 within an ecosystem services marketplace that transfers financial  
11 incentives to ecosystem services providers that are conditional on  
12 the provision of the service. Project types include, but are not  
13 limited to, carbon offset projects.

14 NEW SECTION. **Sec. 3.** (1) The department is authorized to enter  
15 into contracts for payment for ecosystem services projects on terms  
16 and conditions acceptable to the department for the purpose of  
17 generating revenue by providing ecosystem services that directly or  
18 indirectly benefit humans or enhance social welfare. The contract  
19 term may last a period of up to 125 years. Proceeds from contracts  
20 for ecosystem services must be deposited into the appropriate account  
21 in the state treasury.

22 (2) The department may enter into payment for ecosystem services  
23 projects on all public lands managed by the department.

24 (3) The department may:

25 (a) Directly offer for sale ecosystem services credits with  
26 established compliance or voluntary ecosystem services marketplaces.

27 (b) Enter into contracts with ecosystem services project  
28 developers or brokers, through public auction or by direct  
29 negotiation, to bring ecosystem services credits to market. Contracts  
30 for ecosystem services are subject to rules adopted by the board.

31 (4) Notice of intent to contract by negotiation must be published  
32 on the department's website. The notice must be published within the  
33 90 days preceding commencement of negotiations.

34 (5) The department is authorized to conduct any additional  
35 advertising that it determines to be in the best interest of the  
36 state.

37 (6) The department may enter into contracts or agreements with  
38 third-party ecosystem services project developers or brokers for  
39 purposes that include, but are not limited to, determining the

1 feasibility of entering into a contract for a payment for an  
2 ecosystem services project, establishing a payment for an ecosystem  
3 services project with an ecosystem services marketplace, and  
4 marketing and selling credits on an established ecosystem services  
5 marketplace.

6 (7) The department must provide a report to the board upon  
7 execution of a contract for a payment for an ecosystem services  
8 project that includes the term of the contract and projected  
9 revenues.

10 NEW SECTION. **Sec. 4.** (1) Before entering into the sale of  
11 ecosystem services credits under this chapter, the board must approve  
12 contract terms and a minimum payment for ecosystem services that is  
13 valid for a period of 180 days, or a longer period as may be  
14 established by resolution. The board may reestablish the minimum  
15 payment at any time. For any ecosystem services credit sales that the  
16 board is required by law to approve, the board may by resolution  
17 transfer this authority to the commissioner.

18 (2) Where the board has set a minimum payment for ecosystem  
19 services credits, the department may set the final payment for  
20 ecosystem services credits, which must be based on current market  
21 prices.

22 **Sec. 5.** RCW 79.02.010 and 2018 c 258 s 1 are each amended to  
23 read as follows:

24 The definitions in this section apply throughout this title  
25 unless the context clearly requires otherwise.

26 (1) "Aquatic lands" means all state-owned tidelands, shorelands,  
27 harbor areas, and the beds of navigable waters as defined in RCW  
28 79.105.060 that are administered by the department.

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

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

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

33 (5) "Community forest trust lands" means those lands acquired and  
34 managed under the provisions of chapter 79.155 RCW.

35 (6) "Department" means the department of natural resources.

36 (7) (a) "Forest biomass" means the by-products of: Current forest  
37 management activities; current forest protection treatments  
38 prescribed or permitted under chapter 76.04 RCW; or the by-products

1 of forest health treatment prescribed or permitted under chapter  
2 76.06 RCW.

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

9 (8) "Good neighbor agreement" means an agreement entered into  
10 between the state and the United States forest service or United  
11 States bureau of land management to conduct forestland, watershed,  
12 and rangeland restoration activities on federal lands, as originally  
13 authorized by the 2014 farm bill (P.L. 113-79).

14 (9) "Improvements" means anything considered a fixture in law  
15 placed upon or attached to lands administered by the department that  
16 has changed the value of the lands or any changes in the previous  
17 condition of the fixtures that changes the value of the lands.

18 (10) "Land bank lands" means lands acquired under RCW 79.19.020.

19 (11) "Person" means an individual, partnership, corporation,  
20 association, organization, cooperative, public or municipal  
21 corporation, or agency of a federal, state, or local governmental  
22 unit, however designated.

23 (12) "Public lands" means lands of the state of Washington  
24 administered by the department including but not limited to state  
25 lands, state forestlands, lands included in a state forestland pool,  
26 and aquatic lands.

27 (13) "State forestland pool" or "land pool" means state  
28 forestlands acquired and managed under RCW 79.22.140.

29 (14) "State forestlands" means lands acquired under RCW  
30 79.22.010, 79.22.040, and 79.22.020.

31 (15) "State lands" includes:

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

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

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

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

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

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

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

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

11 (16) "Valuable materials" means any product or material on the  
12 lands, such as forest products, forage or agricultural crops, stone,  
13 gravel, sand, peat, and all other materials of value except: (a)  
14 Mineral, coal, petroleum, and gas as provided for under chapter 79.14  
15 RCW; ~~((and))~~ (b) forest biomass as provided for under chapter 79.150  
16 RCW; and (c) ecosystem services as provided for under chapter 79.---  
17 RCW (the new chapter created in section 9 of this act).

18 (17) (a) "Ecosystem services" has the same meaning as defined in  
19 RCW 76.09.020.

20 (b) Examples of ecosystem services include, but are not limited  
21 to, carbon sequestration and storage, air and water filtration,  
22 climate stabilization, and disturbance mitigation.

23 **Sec. 6.** RCW 79.64.110 and 2021 c 334 s 995 and 2021 c 145 s 3  
24 are each reenacted and amended to read as follows:

25 (1) Any moneys derived from the lease of state forestlands or  
26 from the sale of valuable materials, oils, gases, coal, minerals,  
27 ~~((or))~~ fossils, or contracts for ecosystem services from those lands,  
28 except as provided in RCW 79.64.130, or the appraised value of these  
29 resources when transferred to a public agency under RCW 79.22.060,  
30 except as provided in RCW 79.22.060(4), must be distributed as  
31 follows:

32 (a) For state forestlands acquired through RCW 79.22.040 or by  
33 exchange for lands acquired through RCW 79.22.040:

34 (i) The expense incurred by the state for administration,  
35 reforestation, and protection, not to exceed ~~((twenty-five))~~ 25  
36 percent, which rate of percentage shall be determined by the board,  
37 must be returned to the forest development account created in RCW  
38 79.64.100. During the 2017-2019, 2019-2021, and 2021-2023 fiscal

1 biennia, the board may increase the (~~twenty-five~~) 25 percent  
2 limitation up to (~~twenty-seven~~) 27 percent.

3 (ii) Any balance remaining must be paid to the county in which  
4 the land is located or, for counties participating in a land pool  
5 created under RCW 79.22.140, to each participating county  
6 proportionate to its contribution of asset value to the land pool as  
7 determined by the board. Payments made under this subsection are to  
8 be paid, distributed, and prorated, except as otherwise provided in  
9 this section, to the various funds in the same manner as general  
10 taxes are paid and distributed during the year of payment. However,  
11 in order to test county flexibility in distributing state forestland  
12 revenue, a county may in its discretion pay, distribute, and prorate  
13 payments made under this subsection of moneys derived from state  
14 forestlands acquired by exchange between July 28, 2019, and June 30,  
15 2020, for lands acquired through RCW 79.22.040, within the same  
16 county, in the same manner as general taxes are paid and distributed  
17 during the year of payment for the former state forestlands that were  
18 subject to the exchange.

19 (iii) Any balance remaining, paid to a county with a population  
20 of less than (~~sixteen thousand~~) 16,000, must first be applied to  
21 the reduction of any indebtedness existing in the current expense  
22 fund of the county during the year of payment.

23 (iv) With regard to moneys remaining under this subsection  
24 (1)(a), within seven working days of receipt of these moneys, the  
25 department shall certify to the state treasurer the amounts to be  
26 distributed to the counties. The state treasurer shall distribute  
27 funds to the counties four times per month, with no more than (~~ten~~)  
28 10 days between each payment date.

29 (b) For state forestlands acquired through RCW 79.22.010 or by  
30 exchange for lands acquired through RCW 79.22.010, except as provided  
31 in RCW 79.64.120:

32 (i) Fifty percent shall be placed in the forest development  
33 account.

34 (ii) Fifty percent shall be prorated and distributed to the state  
35 general fund, to be dedicated for the benefit of the public schools,  
36 to the county in which the land is located or, for counties  
37 participating in a land pool created under RCW 79.22.140, to each  
38 participating county proportionate to its contribution of asset value  
39 to the land pool as determined by the board, and according to the  
40 relative proportions of tax levies of all taxing districts in the



1 county. The portion to be distributed to the state general fund shall  
2 be based on the regular school levy rate under RCW 84.52.065 (1) and  
3 (2) and the levy rate for any school district enrichment levies. With  
4 regard to the portion to be distributed to the counties, the  
5 department shall certify to the state treasurer the amounts to be  
6 distributed within seven working days of receipt of the money. The  
7 state treasurer shall distribute funds to the counties four times per  
8 month, with no more than (~~ten~~) 10 days between each payment date.  
9 The money distributed to the county must be paid, distributed, and  
10 prorated to the various other funds in the same manner as general  
11 taxes are paid and distributed during the year of payment.

12 (2) A school district may transfer amounts deposited in its debt  
13 service fund pursuant to this section into its capital projects fund  
14 as authorized in RCW 28A.320.330.

15 **Sec. 7.** RCW 79.22.050 and 2003 c 334 s 220 and 2003 c 313 s 7  
16 are each reenacted and amended to read as follows:

17 Except as provided in RCW 79.22.060, all land, acquired or  
18 designated by the department as state forestland, shall be forever  
19 reserved from sale, but the valuable materials thereon may be sold,  
20 ecosystem services may be sold, or the land may be leased in the same  
21 manner and for the same purposes as is authorized for state lands if  
22 the department finds such sale or lease to be in the best interests  
23 of the state and approves the terms and conditions thereof.

24 In the event that the department sells logs using the contract  
25 harvesting process described in RCW 79.15.500 through 79.15.530, the  
26 moneys received subject to this section are the net proceeds from the  
27 contract harvesting sale.

28 **Sec. 8.** RCW 79.105.150 and 2022 c 157 s 19 are each amended to  
29 read as follows:

30 (1) After deduction for management costs as provided in RCW  
31 79.64.040 and payments to towns under RCW 79.115.150(2), all moneys  
32 received by the state from the sale or lease of state-owned aquatic  
33 lands (~~and~~), and from the sale of ecosystem services under chapter  
34 79.--- RCW (the new chapter created in section 9 of this act), shall  
35 be deposited in the aquatic lands enhancement account which is hereby  
36 created in the state treasury. After appropriation, these funds shall  
37 be used solely for aquatic lands enhancement projects; for the

1 purchase, improvement, or protection of aquatic lands for public  
2 purposes; for providing and improving access to the lands; and for  
3 volunteer cooperative fish and game projects. The aquatic lands  
4 enhancement account may be used to support the shellfish program, the  
5 ballast water program, hatcheries, the Puget Sound toxic sampling  
6 program and steelhead mortality research at the department of fish  
7 and wildlife, the knotweed program at the department of agriculture,  
8 actions at the University of Washington for reducing ocean  
9 acidification, which may include the creation of a center on ocean  
10 acidification, the Puget SoundCorps program, and support of the  
11 marine resource advisory council and the Washington coastal marine  
12 advisory council. During the 2017-2019 and 2019-2021 fiscal biennia,  
13 the legislature may transfer from the aquatic lands enhancement  
14 account to the geoduck aquaculture research account for research  
15 related to shellfish aquaculture. During the 2015-2017 fiscal  
16 biennium, the legislature may transfer moneys from the aquatic lands  
17 enhancement account to the marine resources stewardship trust  
18 account.

19 (2) In providing grants for aquatic lands enhancement projects,  
20 the recreation and conservation funding board shall:

21 (a) Require grant recipients to incorporate the environmental  
22 benefits of the project into their grant applications;

23 (b) Utilize the statement of environmental benefits,  
24 consideration, except as provided in RCW 79.105.610, of whether the  
25 applicant is a Puget Sound partner, as defined in RCW 90.71.010,  
26 whether a project is referenced in the action agenda developed by the  
27 Puget Sound partnership under RCW 90.71.310, and except as otherwise  
28 provided in RCW 79.105.630, and effective one calendar year following  
29 the development and statewide availability of urban forestry  
30 management plans and ordinances under RCW 76.15.090, whether the  
31 applicant is an entity that has been recognized, and what gradation  
32 of recognition was received, in the evergreen community designation  
33 program created in RCW 76.15.090 in its prioritization and selection  
34 process; and

35 (c) Develop appropriate outcome-focused performance measures to  
36 be used both for management and performance assessment of the grants.

37 (3) To the extent possible, the department should coordinate its  
38 performance measure system with other natural resource-related  
39 agencies as defined in RCW 43.41.270.

1 (4) The department shall consult with affected interest groups in  
2 implementing this section.

3 (5) Any project designed to address the restoration of Puget  
4 Sound may be funded under this chapter only if the project is not in  
5 conflict with the action agenda developed by the Puget Sound  
6 partnership under RCW 90.71.310.

7 NEW SECTION. **Sec. 9.** Sections 1 through 4 of this act  
8 constitute a new chapter in Title 79 RCW."

9 Correct the title.

EFFECT: Replaces the provisions of the substitute bill with the following:

Authorizes the Department of Natural Resources to enter into contracts for ecosystem services projects 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 before entering into a contract unless it transfers its authority to the Commissioner of Public Lands by resolution.

--- END ---