

HOUSE BILL REPORT

ESHB 1789

As Passed House:

March 7, 2023

Title: An act relating to expanding revenue generation and economic opportunities from natural climate solutions and ecosystem services.

Brief Description: Expanding revenue generation and economic opportunities from natural climate solutions and ecosystem services.

Sponsors: House Committee on Agriculture and Natural Resources (originally sponsored by Representatives Reeves, Fitzgibbon, Chapman, Kloba, Ramel, Pollet and Fosse; by request of Department of Natural Resources).

Brief History:

Committee Activity:

Agriculture and Natural Resources: 2/14/23, 2/17/23 [DPS];

Capital Budget: 2/20/23, 2/22/23 [DPS(AGNR)].

Floor Activity:

Passed House: 3/7/23, 82-13.

Brief Summary of Engrossed Substitute Bill

- Authorizes the Department of Natural Resources (DNR) to enter into contracts for afforestation, reforestation, and aquatic ecosystem service projects (ES projects) on public lands managed by the DNR.
- Requires ES projects to result in a net increase in revenue to trust beneficiaries as compared to revenue expected without the ES project.
- Requires ES projects to be consistent with certain statutory forest health planning and carbon sequestration efforts.
- Provides that any payment for an ES project, contract, or agreement may not limit or impair the exercise of tribal treaty and reserved rights, existing tribal access to lands managed by the DNR, or preexisting

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agreements between tribes and the DNR.

- Requires the Board of Natural Resources to approve contract terms and minimum payment for ecosystem services before entering into a contract.
- Requires the DNR to report to the Legislature and the Office of Financial Management by December 1, 2024, on ES projects.

HOUSE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Chapman, Chair; Morgan, Vice Chair; Reeves, Vice Chair; Dent, Ranking Minority Member; Kretz, Lekanoff and Springer.

Minority Report: Without recommendation. Signed by 4 members: Representatives Chandler, Assistant Ranking Minority Member; Kloba, Orcutt and Schmick.

Staff: Rebecca Lewis (786-7339).

HOUSE COMMITTEE ON CAPITAL BUDGET

Majority Report: The substitute bill by Committee on Agriculture and Natural Resources be substituted therefor and the substitute bill do pass. Signed by 16 members: Representatives Tharinger, Chair; Callan, Vice Chair; Hackney, Vice Chair; Alvarado, Bateman, Farivar, Fosse, Kloba, Leavitt, Morgan, Orwall, Peterson, Reed, Rule, Shavers and Stearns.

Minority Report: Do not pass. Signed by 11 members: Representatives Steele, Ranking Minority Member; Abbarno, Assistant Ranking Minority Member; Sandlin, Assistant Ranking Minority Member; Cheney, Christian, Couture, Dye, McClintock, McEntire, Mosbrucker and Waters.

Minority Report: Without recommendation. Signed by 1 member: Representative Maycumber.

Staff: John Wilson-Tepeli (786-7115).

Background:

The Department of Natural Resources (DNR) manages 5.6 million acres of state-owned public lands, which includes forestlands; aquatic lands; and state trust land that provides revenue to help pay for construction of public schools, universities, and other state

institutions, and funds services in many counties. The Commissioner of Public Lands (Commissioner) is a separately elected statewide official and the administrator for the DNR. The Commissioner chairs the state's Board of Natural Resources, which sets policy for the management of state lands and also the Forest Practices Board, which regulates forest operations.

Generally, valuable materials that are derived on state forestlands and state-owned aquatic lands may be sold, and the funds from those sales must be used in certain ways:

- Monies derived from the sale of valuable materials from state forestlands, except for sales derived from forest health treatments, must be deposited into the Forest Development Account. Through the 2023 fiscal biennium, up to 27 percent must be returned to the Forest Development Account for administration, reforestation, and protection costs. Any balance remaining must be paid to the county in which the land is located or, in the case of a land pool, to each county participating in the pool.
- Monies derived from the sale of valuable materials derived from state-owned aquatic lands must be deposited into the Aquatic Lands Enhancement Account (ALEA). Funds in the ALEA must be used solely for: (1) aquatic lands enhancement projects; (2) purchase, improvement, or protection of aquatic lands for public purposes; (3) providing and improving access to aquatic lands; and (4) volunteer cooperative fish and game projects.

Summary of Engrossed Substitute Bill:

The Department of Natural Resources (DNR) may enter into contracts for payment for certain types of ecosystem services projects (ES projects) on any public lands managed by the DNR, according to terms and conditions acceptable to the DNR, in order to generate revenue by providing ecosystem services that directly or indirectly benefit humans or enhance social welfare. Ecosystem service projects are projects that provide benefits that the public enjoys as a result of natural processes and biodiversity. Ecosystem services include carbon sequestration and storage, air and water filtration, climate stabilization, and disturbance mitigation. Types of ES projects are limited to afforestation, reforestation, and aquatic projects.

Contracts for ES projects may last for up to 125 years. Proceeds from contracts must be deposited into the appropriate account in the State Treasury and distributed in the same manner as money derived from the sale of valuable materials under current law. Proceeds from contracts on state forestlands must be deposited into the Forest Development Account. Proceeds from the sale of ecosystem services derived from state-owned aquatic lands must be deposited into the Aquatic Lands Enhancement Account.

Any ES project must be consistent with ongoing forest health planning efforts, investments, and policies related to wildfire response, restoration, and community resilience, as well as maintaining and enhancing the state's ability to continue to sequester carbon through natural and working lands and forest products and support the forest sector workforce

development goals and investments required of the DNR by statute. Ecosystem service projects must also result in an increase in revenue to beneficiaries as compared to the revenue expected in absence of the project.

Payment for an ES project, contract, or agreement may not limit or impair the exercise of tribal treaty and reserved rights, existing tribal access to lands managed by the DNR, or preexisting agreements between tribes and the DNR.

The DNR may:

- directly offer ecosystem services credits for sale with established compliance or verifiable and established voluntary ecosystem services marketplaces;
- enter into contracts with ecosystem services project developers or brokers through public auction or by direct negotiation to bring ecosystem services credits to the market, subject to approval by, and rules adopted by, the Board of Natural Resources (Board); and
- enter into contracts or agreements with third-party ecosystem services project developers or brokers for purposes that include determining the feasibility of entering into an ecosystem services project contract, establishing a payment for an ecosystem services project with an ecosystem services marketplace, and marketing and selling credits on an established ecosystem services marketplace.

The DNR must publish notice of intent to enter contract negotiations on its website within 90 days preceding the commencement of negotiations. The DNR may conduct additional advertising that it determines is in the best interest of the state.

Upon execution of a contract, the DNR must report the term of the contract and projected revenues to the Board. Before entering into a sale of ecosystem services credits, the Board must set a minimum payment and approve contract terms valid for at least 180 days. The Board may reestablish the minimum payment at any time. The DNR may set the final payment, which must be based on current market prices.

The DNR must submit a report to the Legislature and the Office of Financial Management by December 1, 2024, that includes: (1) information on payment for ES projects entered into or committed to by the DNR, including type of projects, the number of acres involved, and projected revenues; and (2) any challenges or barriers encountered by the DNR in the process of attempting to implement carbon offset or payment for ES projects and recommendations to address those challenges and barriers, including the operability of carbon offset rules.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the

bill is passed.

Staff Summary of Public Testimony (Agriculture and Natural Resources):

(In support) Lands that are managed by the Department of Natural Resources (DNR) provide critical ecosystem services like habitat and carbon sequestration, but also provide important building materials and agricultural products that humans need. This bill will allow the DNR to tap into new revenue streams to provide money to schools and the trust beneficiaries, to support salmon recovery, and to help mitigate impacts from a rapidly changing climate. The DNR will continue to support working forests. Currently, the DNR is limited in its ability to sell carbon credits under the Climate Commitment Act. Carbon projects can help prevent the conversion of forestlands to other non-forest uses. This is a thoughtful, proactive approach to help rural communities generate revenue. State lands provide ongoing benefits to wildlife by keeping ecosystems intact ensuring healthy elk and deer populations that are so important to the ways of life of the state's tribal nations. There should be an amendment that ensures that the DNR's projects will not impede tribal treaty rights. Offsets are less expensive than allowances and are a source of innovation. There is an increasing demand for offsets and as a result they have a higher value coming to market. Land use and forest practices should be responsive to science. Forest carbon projects come in various shapes and sizes, and can be done in a way that benefits the trust beneficiaries. Landowners can lengthen rotations with more thinning. Some areas could benefit from ecosystem projects along diverse landscapes. Language should be added from Senate Bill 5688 to allow the Department of Ecology to support the DNR. The devil is in the details. Nature-based and forest-based credits are emerging and fast-growing markets. New jobs will be created. The bill provides a clear role for the Board of Natural Resources (Board) to establish minimum payments. It is difficult to achieve climate targets without a system in place. Ecosystem service projects and sustainable timber economy are not mutually exclusive. This is a way to compensate rural communities for the ecosystem services that they provide. Maintaining healthy ecosystems also contributes to human health benefits. With this bill, the DNR will have the same ability as the private sector to sell credits in voluntary markets. There are no downsides to this bill.

(Opposed) The bill requires the Board to abdicate its responsibilities by transferring authority to the Commissioner of Public Lands (Commissioner), and gives the DNR sweeping new authority. Rural communities rely on revenue generated from state-owned forestlands. Wood is the only reliably sustainable building material. There is concern that this bill will result in job loss in the timber and milling industries, reduce revenue to junior taxing districts, and negatively impact investments in local companies. Trustees and the public have not had a chance to review this policy. Not enough work has been done to ensure that this policy will not result in reduced timber harvest. If less timber is harvested there will be a need to import wood to meet our construction needs, resulting in even more carbon emissions, possibly from countries that do not share our values. Please get this complicated policy right. This bill is fraught with pitfalls. The DNR's modeling and knowledge is insufficient to fully assess all of the impacts of this legislation. It is important

to think globally but act locally. The most effective climate solutions include local action. Washington is ahead of the game, but this bill does not lead toward the cohesive strategy that is needed. Allowing such long lease terms potentially allows prime timberland to be taken out of production for a century. Lease terms of 125 years could also be used by a future Commissioner or staff to prevent harvesting and management strategies.

(Other) Counties are the beneficiaries of revenues generated on state lands. The money goes to support schools, emergency services, and other important services. Counties support the intent of the legislation. Any legislation on this topic must guarantee added value, increased revenue, no net decrease in timber harvesting, and that revenue from ecosystem services projects does not substitute for timber revenue.

Staff Summary of Public Testimony (Capital Budget):

(In support) This bill will provide additional authority to make money for state beneficiaries on the state lands managed by the Department of Natural Resources (DNR). The bill passed out of the House Agricultural and Natural Resources Committee with bipartisan support, which shows there is recognition that this bill will help make money for beneficiaries and help with the DNR's management of climate change impacts. The DNR is competing on an uneven playing field with the private sector. In addition, the DNR cannot sell carbon credits, which limits their ability to comply with Climate Commitment Act goals. The bill provides the DNR with the same ability to sell carbon credits in the private market as private sector companies. The existing restrictions on these activities mean less revenue for the state and for beneficiaries. This bill helps the state get one step closer to what the Climate Commitment Act envisions and will help put the DNR on an even playing field with private sector and nonprofit organizations.

The DNR has many acres of state lands that have burned and cannot reforest due to funding limitations. This bill would enable the DNR to have the private sector restore these lands. The carbon market will pay to help restore forest lands. These projects will support a variety of projects in critical habitats. These projects will result in increasing the yield on these lands in terms of timber and agricultural production. There are critical sideboards on this bill that have the approval of stakeholders. Climate offsets help control costs and boost participation in carbon markets. This is an opportunity to develop new projects. There is a wide variety of ecosystem services that could be used through the bill. This will support additional revenue to the trusts and will also benefit the environment. This gives the DNR options to maximize revenue for beneficiaries.

(Opposed) This bill should not be advanced without appropriate due diligence to understand the impacts. Many communities rely on timber to help meet affordable housing needs and to support their timber-based economies. Everyone wants to see more carbon captured in forests; however, the state should not sacrifice the needs of beneficiaries to meet this goal. There is no urgency to getting this bill passed now. There are many details to get worked out. The bill will cause problems for trust land-funded programs, including Substitute

House Bill 1044 on school construction heard today, because of how it will impact revenue streams from trust lands.

Long-term wildlife management and sustainable harvest limits have been reached after years of work. This bill will have a negative impact on rural economies and create additional encumbrances on state lands. The DNR policies have left some people with no place to work. Trillions of dollars have been left on the table due to the strict environmental rules imposed by the state. Alternatives are needed to regulate and address climate change. The DNR timber harvests support the production of veneer and materials adequate timber harvests to enable this business to survive. The amount of timber harvests keep declining, and there has not been sufficient lumber available to support the industry. More consultation is needed with the industry on this bill.

(Other) There is support for the bill's broad ideas about adding trust value and increasing revenue for trust beneficiaries, but there is limited interest in the proposal if this will reduce trust revenues. The bill was introduced late in the process, and stakeholders have not had opportunities to engage with the DNR; however, this is an important conversation.

Persons Testifying (Agriculture and Natural Resources): (In support) Representative Kristine Reeves, prime sponsor; Jeremy Wilbur, Swinomish Indian Tribal Community; Sherri Dysart, League of Women Voters of Washington; Isaac Kastama, Clean and Prosperous Washington; Jerry Ericsson, Columbia Carbon; Mariska Kecskes, Sierra Club; Paula Swedeen; Raymond Paoella; Justin Allegro, The Nature Conservancy; Darcy Nonemacher, Washington Conservation Action; Hilary Franz, Department of Natural Resources; Thor Kallestad, Myno Carbon Corp; and Chris Covert-Bowlds.

(Opposed) Tom Lannen, Skamania County Commissioners; Randy Johnson, Clallam County 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; Lawrence Marshall, Murphy Company; Ron Hurn, Interfor Corporation; Brian Karnes, Cascade Hardwood; Elaine Oneil; John Henrikson, Wild Thyme Tree Farm; Rod Fleck, City of Forks; and Eric ffitch, Washington Public Ports Association.

(Other) Paul Jewell, Washington State Association of Counties.

Persons Testifying (Capital Budget): (In support) Hilary Franz, Duane Emmons, and Csenka Favorini-Csorba, Department of Natural Resources; Jill Silver, 10,000 Years Institute; Isaac Kastama, Clean and Prosperous Washington; and Lauren Breynaert, Myno Carbon Corporation.

(Opposed) Lawrence Marshall, Murphy Company; Connie Beauvais, Port of Port Angeles; Tom Lannen, Skamania County Board of Commissioners; John Worthington; Bill Turner, Sierra Pacific Industries; Doug Cooper, Hampton Lumber Company; and Matt Comisky, American Forest Resource Council.

(Other) Paul Jewell, Washington State Association of Counties; and David Mendoza, The Nature Conservancy.

Persons Signed In To Testify But Not Testifying (Agriculture and Natural Resources):
None.

Persons Signed In To Testify But Not Testifying (Capital Budget): None.