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**SENATE BILL 5688**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senators Lovelett, Nguyen, Hunt, Lias, Rolfes, and Saldaña; by request of Department of Natural Resources

Read first time 02/03/23. Referred to Committee on Environment, Energy & Technology.

1 AN ACT Relating to providing carbon sequestration and ecosystem  
2 services in the management of public lands; amending RCW 79.02.010  
3 and 79.105.150; reenacting and amending RCW 79.64.110 and 79.22.050;  
4 adding a new section to chapter 70A.65 RCW; adding a new chapter to  
5 Title 79 RCW; and creating a new section.

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

7 **PART 1**

8 **FINDINGS AND INTENT**

9 NEW SECTION. **Sec. 101.** (1) The legislature finds that the  
10 climate commitment act, which established a cap and invest program  
11 under chapter 70A.65 RCW, makes Washington state a leader in climate  
12 policy and, through the codification of carbon offset projects,  
13 creates a new way for revenue to be generated from lands and waters  
14 in the state while advancing the state's greenhouse gas emissions  
15 policies. Carbon offset projects established for this program must  
16 primarily benefit the people of Washington by being located on  
17 Washington lands and waters to the extent possible, rather than  
18 outside the state. In addition to this program, there are emerging  
19 carbon offset markets, both regulatory and voluntary, in which land  
20 managing state agencies and local governments may obtain financial

1 benefits through management agreements that increase carbon  
2 sequestration, also helping to mitigate the adverse impacts of  
3 climate disruption. The legislature further finds that the department  
4 of ecology should provide technical assistance to state agencies and  
5 local governments seeking to sponsor carbon offset credit projects on  
6 their lands in a manner that will meet the climate commitment act  
7 requirements.

8 (2) Therefore, it is the intent of this act to authorize the  
9 department of ecology to provide technical assistance to any state  
10 agency or local government seeking to sponsor carbon offset projects  
11 that will qualify as offset credits under the climate commitment act.  
12 Further, it is the intent of this act to provide the department of  
13 natural resources with specific authority, procedures, and criteria  
14 for development and implementation of carbon storage projects and  
15 associated ecosystem services.

## 16 PART 2

### 17 CLIMATE COMMITMENT ACT OFFSET PROJECTS BY STATE AGENCIES AND LOCAL 18 GOVERNMENTS

19 NEW SECTION. **Sec. 201.** A new section is added to chapter 70A.65  
20 RCW to read as follows:

21 The department must establish a program to provide assistance to  
22 any state agency or local government seeking to develop an offset  
23 program relating to lands managed by the agency or local government.  
24 The assistance may include, but is not limited to, funding or  
25 technical assistance to assess a project's technical feasibility,  
26 investment requirements, development and operational costs, expected  
27 returns, administrative and legal hurdles, and project risks and  
28 pitfalls.

## 29 PART 3

### 30 OFFSET PROJECTS DEVELOPED BY THE DEPARTMENT OF NATURAL RESOURCES

31 NEW SECTION. **Sec. 301.** The definitions in this section apply  
32 throughout this chapter unless the context clearly requires  
33 otherwise.

34 (1) "Carbon credit" means one metric ton of carbon dioxide  
35 equivalent removed from the atmosphere or prevented from being

1 emitted into the atmosphere as a result of a carbon offset project  
2 and within a carbon market transaction.

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

5 (3)(a) "Ecosystem service" means the outputs, conditions, or  
6 processes of natural systems that directly or indirectly benefit  
7 humans or enhance social welfare.

8 (b) "Ecosystem service" includes, but is not limited to, carbon  
9 sequestration and storage, air and water filtration, climate  
10 stabilization, disturbance mitigation, pollination, pest and disease  
11 control, waste decomposition and detoxification, and nutrient  
12 cycling.

13 (4) "Ecosystem service credit" means a predetermined and  
14 standardized unit that represents a measurable ecosystem service  
15 provided in the context of a payment for an ecosystem service  
16 project.

17 (5) "Ecosystem service marketplace" means an environmental  
18 commodity market that brings together buyers, sellers, and investors  
19 to exchange ecosystem services as tangible commodities in exchange  
20 for compensation.

21 (6) "Ecosystem service project broker" means an entity that  
22 facilitates the process of matching ecosystem service providers and  
23 purchasers of ecosystem service project credits. An ecosystem service  
24 project broker may sell or procure credits on their clients' behalf  
25 and provide financing and marketing expertise. Ecosystem service  
26 project brokers may also act as ecosystem service project developers.

27 (7) "Ecosystem service project developer" means an entity that  
28 sources and initiates ecosystem service projects on behalf of the  
29 ecosystem service provider including, but not limited to, by working  
30 with ecosystem service project standards and verification bodies,  
31 bearing financial risks of projects, and working with a network of  
32 distributors and retailers to deliver auditable ecosystem service  
33 project credits to a marketplace. An ecosystem service project  
34 developer may also act as an ecosystem service project broker.

35 (8) "Payment for ecosystem service project" means a transaction  
36 within an ecosystem service marketplace that transfers financial  
37 incentives to ecosystem service providers that are conditional on the  
38 provision of the service. Project types include, but are not limited  
39 to, carbon offset projects.

1        NEW SECTION.     **Sec. 302.**     (1) The department is authorized to  
2 enter into contracts for payment for ecosystem service projects on  
3 terms and conditions acceptable to the department for the purpose of  
4 generating revenue by providing ecosystem services that directly or  
5 indirectly benefit humans or enhance social welfare. The contract  
6 term may last a period of up to 125 years. Proceeds from contracts  
7 for ecosystem services must be deposited into the appropriate account  
8 in the state treasury.

9        (2) The department may enter into payment for ecosystem service  
10 projects on all public lands managed by the department.

11        (3) The department may:

12        (a) Directly offer for sale ecosystem service credits with  
13 established compliance or voluntary ecosystem service marketplaces.

14        (b) Enter into contracts with ecosystem service project  
15 developers or brokers, through public auction or by direct  
16 negotiation, to bring ecosystem service credits to market. Contracts  
17 for ecosystem services are subject to rules adopted by the board.

18        (4) Notice of intent to contract by negotiation must be published  
19 on the department's website. The notice must be published within the  
20 90 days preceding commencement of negotiations.

21        (5) The department is authorized to conduct any additional  
22 advertising that it determines to be in the best interest of the  
23 state.

24        (6) The department may enter into contracts or agreements with  
25 third-party ecosystem service project developers or brokers for  
26 purposes that include, but are not limited to, determining the  
27 feasibility of entering into a contract for a payment for an  
28 ecosystem service project, establishing a payment for an ecosystem  
29 service project with an ecosystem service marketplace, and marketing  
30 and selling credits on an established ecosystem service marketplace.

31        (7) The department must provide a report to the board upon  
32 execution of a contract for a payment for an ecosystem service  
33 project that includes the term of the contract and projected  
34 revenues.

35        NEW SECTION.     **Sec. 303.**     (1) Before entering into the sale of  
36 ecosystem service credits under this chapter, the board must approve  
37 contract terms and a minimum payment for ecosystem services that is  
38 valid for a period of 180 days, or a longer period as may be  
39 established by resolution. The board may reestablish the minimum

1 payment at any time. For any ecosystem service credit sales that the  
2 board is required by law to approve, the board may by resolution  
3 transfer this authority to the commissioner.

4 (2) Where the board has set a minimum payment for ecosystem  
5 service credits, the department may set the final payment for  
6 ecosystem service credits, which must be based on current market  
7 prices.

8 **Sec. 304.** RCW 79.02.010 and 2018 c 258 s 1 are each amended to  
9 read as follows:

10 The definitions in this section apply throughout this title  
11 unless the context clearly requires otherwise.

12 (1) "Aquatic lands" means all state-owned tidelands, shorelands,  
13 harbor areas, and the beds of navigable waters as defined in RCW  
14 79.105.060 that are administered by the department.

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

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

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

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

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

22 (7) (a) "Forest biomass" means the by-products of: Current forest  
23 management activities; current forest protection treatments  
24 prescribed or permitted under chapter 76.04 RCW; or the by-products  
25 of forest health treatment prescribed or permitted under chapter  
26 76.06 RCW.

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

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

38 (9) "Improvements" means anything considered a fixture in law  
39 placed upon or attached to lands administered by the department that

1 has changed the value of the lands or any changes in the previous  
2 condition of the fixtures that changes the value of the lands.

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

4 (11) "Person" means an individual, partnership, corporation,  
5 association, organization, cooperative, public or municipal  
6 corporation, or agency of a federal, state, or local governmental  
7 unit, however designated.

8 (12) "Public lands" means lands of the state of Washington  
9 administered by the department including but not limited to state  
10 lands, state forestlands, lands included in a state forestland pool,  
11 and aquatic lands.

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

14 (14) "State forestlands" means lands acquired under RCW  
15 79.22.010, 79.22.040, and 79.22.020.

16 (15) "State lands" includes:

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

19 (b) University lands, that is, lands held in trust for university  
20 purposes;

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

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

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

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

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

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

35 (16) "Valuable materials" means any product or material on the  
36 lands, such as forest products, forage or agricultural crops, stone,  
37 gravel, sand, peat, and all other materials of value except: (a)  
38 Mineral, coal, petroleum, and gas as provided for under chapter 79.14  
39 RCW; (~~and~~) (b) forest biomass as provided for under chapter 79.150

1 RCW; and (c) ecosystem services as provided for under chapter 79.---  
2 RCW (the new chapter created in section 401 of this act).

3 (17) (a) "Ecosystem service" means the outputs, conditions, or  
4 processes of natural systems that directly or indirectly benefit  
5 humans or enhance social welfare.

6 (b) "Ecosystem service" includes, but is not limited to, carbon  
7 sequestration and storage, air and water filtration, climate  
8 stabilization, disturbance mitigation, pollination, pest and disease  
9 control, waste decomposition and detoxification, and nutrient  
10 cycling.

11 **Sec. 305.** RCW 79.64.110 and 2021 c 334 s 995 and 2021 c 145 s 3  
12 are each reenacted and amended to read as follows:

13 (1) Any moneys derived from the lease of state forestlands or  
14 from the sale of valuable materials, oils, gases, coal, minerals,  
15 ~~(( $\oplus$ )) fossils, or contracts for ecosystem services~~ from those lands,  
16 except as provided in RCW 79.64.130, or the appraised value of these  
17 resources when transferred to a public agency under RCW 79.22.060,  
18 except as provided in RCW 79.22.060(4), must be distributed as  
19 follows:

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

22 (i) The expense incurred by the state for administration,  
23 reforestation, and protection, not to exceed ~~((twenty-five))~~ 25  
24 percent, which rate of percentage shall be determined by the board,  
25 must be returned to the forest development account created in RCW  
26 79.64.100. During the 2017-2019, 2019-2021, and 2021-2023 fiscal  
27 biennia, the board may increase the ~~((twenty-five))~~ 25 percent  
28 limitation up to ~~((twenty-seven))~~ 27 percent.

29 (ii) Any balance remaining must be paid to the county in which  
30 the land is located or, for counties participating in a land pool  
31 created under RCW 79.22.140, to each participating county  
32 proportionate to its contribution of asset value to the land pool as  
33 determined by the board. Payments made under this subsection are to  
34 be paid, distributed, and prorated, except as otherwise provided in  
35 this section, to the various funds in the same manner as general  
36 taxes are paid and distributed during the year of payment. However,  
37 in order to test county flexibility in distributing state forestland  
38 revenue, a county may in its discretion pay, distribute, and prorate  
39 payments made under this subsection of moneys derived from state

1 forestlands acquired by exchange between July 28, 2019, and June 30,  
2 2020, for lands acquired through RCW 79.22.040, within the same  
3 county, in the same manner as general taxes are paid and distributed  
4 during the year of payment for the former state forestlands that were  
5 subject to the exchange.

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

10 (iv) With regard to moneys remaining under this subsection  
11 (1)(a), within seven working days of receipt of these moneys, the  
12 department shall certify to the state treasurer the amounts to be  
13 distributed to the counties. The state treasurer shall distribute  
14 funds to the counties four times per month, with no more than (~~ten~~)  
15 10 days between each payment date.

16 (b) For state forestlands acquired through RCW 79.22.010 or by  
17 exchange for lands acquired through RCW 79.22.010, except as provided  
18 in RCW 79.64.120:

19 (i) Fifty percent shall be placed in the forest development  
20 account.

21 (ii) Fifty percent shall be prorated and distributed to the state  
22 general fund, to be dedicated for the benefit of the public schools,  
23 to the county in which the land is located or, for counties  
24 participating in a land pool created under RCW 79.22.140, to each  
25 participating county proportionate to its contribution of asset value  
26 to the land pool as determined by the board, and according to the  
27 relative proportions of tax levies of all taxing districts in the  
28 county. The portion to be distributed to the state general fund shall  
29 be based on the regular school levy rate under RCW 84.52.065 (1) and  
30 (2) and the levy rate for any school district enrichment levies. With  
31 regard to the portion to be distributed to the counties, the  
32 department shall certify to the state treasurer the amounts to be  
33 distributed within seven working days of receipt of the money. The  
34 state treasurer shall distribute funds to the counties four times per  
35 month, with no more than (~~ten~~) 10 days between each payment date.  
36 The money distributed to the county must be paid, distributed, and  
37 prorated to the various other funds in the same manner as general  
38 taxes are paid and distributed during the year of payment.



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

4 **Sec. 306.** RCW 79.22.050 and 2003 c 334 s 220 and 2003 c 313 s 7  
5 are each reenacted and amended to read as follows:

6 Except as provided in RCW 79.22.060, all land, acquired or  
7 designated by the department as state forestland, shall be forever  
8 reserved from sale, but the valuable materials thereon may be sold,  
9 ecosystem services may be sold, or the land may be leased in the same  
10 manner and for the same purposes as is authorized for state lands if  
11 the department finds such sale or lease to be in the best interests  
12 of the state and approves the terms and conditions thereof.

13 In the event that the department sells logs using the contract  
14 harvesting process described in RCW 79.15.500 through 79.15.530, the  
15 moneys received subject to this section are the net proceeds from the  
16 contract harvesting sale.

17 **Sec. 307.** RCW 79.105.150 and 2022 c 157 s 19 are each amended to  
18 read as follows:

19 (1) After deduction for management costs as provided in RCW  
20 79.64.040 and payments to towns under RCW 79.115.150(2), all moneys  
21 received by the state from the sale or lease of state-owned aquatic  
22 lands (~~and~~), from the sale of valuable material from state-owned  
23 aquatic lands, and from the sale of ecosystem services under chapter  
24 79.--- RCW (the new chapter created in section 401 of this act),  
25 shall be deposited in the aquatic lands enhancement account which is  
26 hereby created in the state treasury. After appropriation, these  
27 funds shall be used solely for aquatic lands enhancement projects;  
28 for the purchase, improvement, or protection of aquatic lands for  
29 public purposes; for providing and improving access to the lands; and  
30 for volunteer cooperative fish and game projects. The aquatic lands  
31 enhancement account may be used to support the shellfish program, the  
32 ballast water program, hatcheries, the Puget Sound toxic sampling  
33 program and steelhead mortality research at the department of fish  
34 and wildlife, the knotweed program at the department of agriculture,  
35 actions at the University of Washington for reducing ocean  
36 acidification, which may include the creation of a center on ocean  
37 acidification, the Puget SoundCorps program, and support of the  
38 marine resource advisory council and the Washington coastal marine

1 advisory council. During the 2017-2019 and 2019-2021 fiscal biennia,  
2 the legislature may transfer from the aquatic lands enhancement  
3 account to the geoduck aquaculture research account for research  
4 related to shellfish aquaculture. During the 2015-2017 fiscal  
5 biennium, the legislature may transfer moneys from the aquatic lands  
6 enhancement account to the marine resources stewardship trust  
7 account.

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

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

12 (b) Utilize the statement of environmental benefits,  
13 consideration, except as provided in RCW 79.105.610, of whether the  
14 applicant is a Puget Sound partner, as defined in RCW 90.71.010,  
15 whether a project is referenced in the action agenda developed by the  
16 Puget Sound partnership under RCW 90.71.310, and except as otherwise  
17 provided in RCW 79.105.630, and effective one calendar year following  
18 the development and statewide availability of urban forestry  
19 management plans and ordinances under RCW 76.15.090, whether the  
20 applicant is an entity that has been recognized, and what gradation  
21 of recognition was received, in the evergreen community designation  
22 program created in RCW 76.15.090 in its prioritization and selection  
23 process; and

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

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

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

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

35 **PART 4**

36 **CODIFICATION DIRECTIVES**

1        NEW SECTION.    **Sec. 401.**    Sections 301 through 303 of this act  
2    constitute a new chapter in Title 79 RCW.

--- **END** ---