Individual State Agency Fiscal Note

Bill Number: 5254 2S SB	Title: Leasing of state lands	Agency: 490-Department of Natural Resources

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
Resource Management Cost Account-State 041-1		(69,400)	(69,400)	(208,200)	(347,000)
Common School Construction Account-State 113-1		(154,600)	(154,600)	(463,800)	(773,000)
Total $		(224,000)	(224,000)	(672,000)	(1,120,000)

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	3.9	1.3	2.6	1.3	1.3
Account					
General Fund-State 001-1	505,200	150,900	656,100	301,800	301,800
Total $	505,200	150,900	656,100	301,800	301,800

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

[X] If fiscal impact is greater than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.

[ ] If fiscal impact is less than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).

[ ] Capital budget impact, complete Part IV.

[X] Requires new rule making, complete Part V.

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Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

Difference between substitute bill and the second substitute bills:
Section 1(7) – Adds an exemption for agriculture, grazing, or communication sites leases or commercial leases with an annual amount under $50,000.

Section 1(8)(a) – changes requirements from providing online access to all lease information to a general summary of lease information including lease terms and amounts paid.

Adds Section 1(8)(b) – provides an exemption for disclosure of sensitive or confidential information on federal leases.

These changes decrease the impact to DNR relative to substitute bill.

New Bill Description:
Section 1(7) – Except for agriculture, grazing, or communication sites leases or commercial leases with an annual amount under $50,000, requires that all new or existing leases subject to renewal be subject to approval by the Board of Natural Resources. Requires the department to implement the subsection within existing resources.

Section 1(8) – Requires DNR to make a general summary of lease information available, on a per parcel basis, on a readily available public electronic platform. Requires no disclosure of sensitive or confidential information on federal leases.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

Impacts to revenue are indeterminate. The Board of Natural Resources (BNR) has authorized the department to directly negotiate complex leases under WAC 332-22-105 for commercial, industrial, residential, and communication site use. This is done because complex leases require back and forth negotiation to come to terms agreeable to both parties. Prospective lessees of our most valuable leases may choose to exclude DNR parcels from a project because of the added bureaucratic process and perceived risk of denial. Lessees will not wish to enter into complex negotiations if they do not feel they are negotiating with the decision-makers, and open public meeting act requirements of the BNR do not allow for discussion of these issues in executive session. Programs with high-likelihood of being affected are commercial real estate and clean energy, with lesser anticipated impacts to mining and minerals.

The potential increase between a low-value grazing lease at $2 per acre to a clean energy lease at $300 to $1100 per acre is between $144,000 and $614,000 per year. This calculation uses a lower range of $400 per acre for a 560 acre lease and anticipates the loss of one lease, of the same value, every other year. Calculated revenue loss for one contract is $224,000 per year for fiscal years 2025 and 2026, then compounding.

The programs identified with the highest likelihood of impacts have all, or the majority, of the land base on Common School trust so the estimated decrease in revenue is limited, in this example, to the Common School Construction Account and the Resource Management Cost Account (RMCA). DNR retains 31 percent of the revenue from activities on these federally-granted trust lands and places it into RMCA; the remaining 69 percent is distributed to the beneficiary.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

DNR interprets the language in Section 1(7) to mean an exemption for all agriculture or grazing leases and then an exemption for leases with an annual value of less than $50,000 for communication sites or commercial real estate.

RCW 79.13.010 is specific to the leasing of state lands and state forestlands, defined in 79.02.110(15) to include lands managed by the State Uplands programs and that do not include state-owned aquatic lands. Therefore, DNR assumes the approval of leases by the Board of Natural Resources (Section 1(7)) is limited to the State Uplands programs and would not include Aquatics land leasing. DNR assumes approval by the Board of Natural Resources includes new leases, renewals, rate adjustments, amendments, and any other action that causes an update or change to the lease. Section 1(8) specifically calls out the need for leasing information from "state public lands" that, under RCW 79.02.010(12), includes state-owned aquatic lands and would therefore include the Aquatics programs.

DNR will struggle to meet the requirements of Section 1(7) of this bill within existing resources. DNR has cut expenditures, specifically from RMCA, for each of the last two biennia due to stable but sometimes decreasing revenues coupled with increasing costs. Expenditures that DNR cannot opt to cut such as cost of living, interagency payments and other assessment fees, fuel, materials, contract costs, etc. have all had sharp increases over the past few biennia. With every increase DNR has to absorb those costs to fit within the existing revenue amounts.

Without assistance, existing revenue-generating resources moved from their current work in order to meet the requirements of this new task. We estimate those reductions to be $301,800 starting in biennium 2023-25 and ongoing. Examples of reductions from the affected programs to cover the ongoing costs include:
- Leasing programs – one existing leasing program manager or half of two program managers to replace the one new FTE. This results in a reduction of resources for revenue generating activities such as: complying lease terms, creating new leases, and renewing existing leases. This would reduce available revenue.
- Leasing programs – not fill the Management Analyst 3 position to ensure continuation of work during the build of the leasing dashboard. This would decrease the existing staff time to complete the expected deliverables in fiscal year 2024. This also results in a reduction of resources for revenue generating activities such as: complying lease terms, creating new leases, and renewing existing leases. This would reduce available revenue.

Other possible options to provide for ongoing funding from outside of the affected programs include:
- Silviculture treatments – up to $301,800 from support of the Camps program. Based on current work analysis this results in a decrease of 1600 acres of pre-commercial thinning. This decreases volume for future timber revenue and increases risk of wildfire, insect, and disease.
- Mitigation of impacts of public use – the entire $100,000 budget resulting in no repair to vandalized infrastructure, no cleanup of garbage dumping, no removal of derelict vehicles such as cars and campers.
- State lands infrastructure – up to $301,800 (31%) from the maintenance portion of the budget (not tied to assessments such as county tax fees and forest fire protection) resulting in a greatly reduced budget for unplanned maintenance at Webster Nursery, communication sites, agriculture infrastructure or commercial properties; and purchasing of permanent easements to access state land.

Product Sales and Leasing – Sections 1(7) & (8)
Based on fiscal year 2022 lease and rental activity, the Leasing programs (clean energy, mining and minerals, commercial real estate, and special use leasing) estimate 350 leasing actions meeting the criteria of 2SSB 5254. With 11 board meetings per year, the programs could present 32 leases for approvals each meeting. In addition to leasing actions that are ready for approval, the program also assumes the board will want notification for leases requests that were turned down by the program and the reason behind the denial. As the value for communication site leases increase more leases will meet the $50,000 threshold and increase the amount of leasing actions brought to the board.

The program and lease management for the clean energy, mining and minerals, communication sites, and special use leasing programs are conducted by the division. All of the lease information is readily available to these positions at their worksite.

1.0 FTE of Natural Resource Specialist 4. This position will conduct the following work for 350 asset leasing actions per year to meet the requirements of Section 1(7). Prepares leasing packets for the board meetings, conducts the presentation of leases to the board, performs outreach to the board members, and conducts communication to stakeholders and project proponents. This position will also conduct entries to create the dashboard, post all current data, ensure the removal of sensitive and confidential information, and then maintain the data moving forward. In biennium 2023-25 this position will conduct all the research, language requirements, and outreach for rulemaking.

0.25 FTE (6 months) temporary position of Management Analyst 3. This position acts as a subject matter expert during the creation of the dashboard, ensuring that state lands leasing workflow and business issues surrounding leases are considered during the build out. This position would ensure the continuity of normal business operations during the work on the dashboard project, helping to meet requirements of Section 1(8).

Expenditures are $382,500 for the first biennium, and $301,800 each biennium after that.

- Fiscal year 2024 - $231,600 for 1.0 FTE of Natural Resource Specialist 4, 0.5 FTE (6 months) of Management Analyst 3, and one-time expenditures for workstations and computers ($10,000).
- Fiscal year 2025 and ongoing - $150,900 for 1.0 FTE of Natural Resource Specialist 4.

Aquatics Division – Section 1(8) only

Aquatic Resources currently maintains approximately 1,200 active leases and executes approximately 25-50 new leases each year. The number of leases that terminate each year is smaller than the number of new leases, so the total number of active leases will continue to grow moving forward. It is also assumed that a new website would not be needed as the information would be posted on DNR's existing public website.

0.25 FTE (6 months) temporary position of IT Business Analyst – Entry for one fiscal year to act as a subject matter expert during the creation of the dashboard, ensuring the aquatic resources workflow and business issues surrounding leases are considered during the build out (knowledge of Aquatic Resource's agreements and business workflow is required).

Expenditures are $93,500 for one-time expenditures in the first biennium.

- Fiscal year 2024 - $93,500 for 0.5 FTE (6 months) of IT Business Analyst – Entry and one-time expenditures for workstation and computer ($9,800).

Office of Finance, Budget, and Economics – Section 1(8) only

0.25 FTE (6 months) temporary position of Fiscal Analyst 5. This positions acts as a subject matter expert during the creation of the dashboard, ensuring that any financial workflow and business issues surrounding leases are considered during the build out. This position would ensure the continuity of normal business operations during the work on the dashboard project, helping to meet requirements of Section 1(8).

Expenditures are $87,200 for one-time expenditures in the first biennium.

- Fiscal year 2024 - $87,200 for 0.5 FTE (6 months) of Fiscal Analyst 5 and one-time expenditures for workstation and computer ($9,800).

Information Technology Division – Section 1(8) only

DNR is assuming modification to the existing ArcGIS online ‘Agricultural Leasing Opportunities’ map viewer to include all leases. The project would take 6 months estimated to start in July/August 2023 to gather requirements, develop the data source, design, develop, test and deploy the updated map viewer. DNR assumes using the same data source as the agricultural leases and expanding it to include all lease data. DNR will use the existing ArcGIS platform that is established at the department

0.25 FTE of IT Application Development – Journey, this position would gather requirements, design, develop, test, and deploy the updated map viewer.

Expenditures are $93,100 for one-time expenditures in the first biennium.
- Fiscal year 2024 - $93,100 for 0.5 FTE (6 months) of IT Application Development – Journey.

Goods and services and travel are calculated on actual program averages per person.

Administrative costs are calculated at 31% of staff salary and benefits and staff-related goods and services and travel. For fiscal note purposes, this cost is represented as a Fiscal Analyst 2 position (0.93 FTE for fiscal year 2024, and 0.31 FTE for fiscal year 2025 and ongoing).

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
001-1	General Fund	State	505,200	150,900	656,100	301,800	301,800
		Total $	505,200	150,900	656,100	301,800	301,800

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	3.9	1.3	2.6	1.3	1.3
A-Salaries and Wages	246,600	77,000	323,600	154,000	154,000
B-Employee Benefits	87,500	28,900	116,400	57,800	57,800
C-Professional Service Contracts					
E-Goods and Other Services	51,700	9,300	61,000	18,600	18,600
G-Travel	3,600	1,800	5,400	3,600	3,600
J-Capital Outlays	8,600		8,600		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements	107,200	33,900	141,100	67,800	67,800
9-					
Total $	505,200	150,900	656,100	301,800	301,800

III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
Fiscal Analyst 2	55,872	0.9	0.3	0.6	0.3	0.3
Fiscal Analyst 5	80,952	0.5		0.3		
IT APP Development - Journey	100,032	0.5		0.3		
IT Business Analyst - Entry	86,616	0.5		0.3		
Management Analyst 3	71,520	0.5		0.3		
Natural Resources Specialist 4	77,028	1.0	1.0	1.0	1.0	1.0
Total FTEs		3.9	1.3	2.6	1.3	1.3

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

DNR will need to make revisions to WAC 332-22 particularly the following sections but there may be more.
-010: covers Board resolutions delegating authority for leases to DNR
-040: leasing procedures
-050: lease amendments
-060: rate adjustments
-100: lease negotiations
-105: initiation of leases of commercial property, etc.
-140: temporary extension of expired leases
-150: expired lease occupancy
-170: geothermal leases