
SENATE BILL 5001

State of Washington 62nd Legislature 2011 Regular Session

By Senators Stevens, Schoesler, Morton, Honeyford, and Becker

Read first time 01/10/11. Referred to Committee on Natural Resources & Marine Waters.

1 AN ACT Relating to unappropriated public lands; adding a new
2 chapter to Title 79 RCW; creating new sections; prescribing penalties;
3 and providing a contingent effective date.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that:

6 (1) The intent of the framers of that compact known as the
7 Constitution of the United States was to guarantee to each of the
8 several states sovereignty over all matters within its boundaries
9 excepting only those powers specifically granted to the government of
10 the United States, as agent of the several states, under the
11 Constitution of the United States;

12 (2) The imposition upon the state of Washington by the congress of
13 the United States, of a requirement that the state of Washington
14 "disclaim all right and title to the unappropriated public lands" lying
15 within the state as a condition prerequisite to acceptance of the state
16 of Washington into the union, was an act beyond the power of the
17 congress of the United States and is thus null and of no effect;

18 (3) The present purported ownership and control of the public lands

1 within the state of Washington by the government of the United States
2 is without foundation and violates the clear intent of the Constitution
3 of the United States; and

4 (4) The purported ownership and control of the public lands within
5 the state of Washington by the government of the United States works a
6 severe, continuous, and debilitating hardship upon the people of the
7 state of Washington.

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

10 (1) "Department" means the department of natural resources.

11 (2) "Public lands" means all unreserved, unappropriated public
12 lands within the exterior boundaries of the state, except lands:

13 (a) To which title is held by any private person or entity;

14 (b) To which title was held by the state or any political
15 subdivision of the state on the effective date of this section;

16 (c) Within the boundaries of:

17 (i) National parks;

18 (ii) National forests;

19 (iii) National monuments;

20 (iv) National wildlife and migratory bird sanctuaries established
21 prior to October 16, 1978; and

22 (v) Military reservations;

23 (d) That are essential to the operation, maintenance, and access
24 to:

25 (i) United States army corps of engineers and United States bureau
26 of reclamation projects;

27 (ii) Designated United States highways; or

28 (iii) Shipyards, docks, security and defense establishments,
29 magazines, and arsenals;

30 (e) On which buildings are sited to house operations of the United
31 States government; or

32 (f) Owned or controlled by sovereign Indian nations.

33 NEW SECTION. **Sec. 3.** (1) Subject to existing rights of the
34 people, on and after the effective date of this section, fee title to
35 all public lands in Washington, all water on and below the surface of

1 the land, and all minerals not previously appropriated is vested in the
2 state of Washington.

3 (2) Until equivalent measures are enacted by the state of
4 Washington, the rights and privileges of the people of the state under
5 the national forest reserve transfer act (16 U.S.C. Sec. 471 et seq.),
6 the general mining laws (30 U.S.C. Sec. 21 et seq.), the homestead act
7 (43 U.S.C. 161 et seq.), the Taylor grazing act (43 U.S.C. Sec. 315 et
8 seq.), the desert land act (43 U.S.C. Sec. 321 et seq.), and all
9 rights-of-way and easements for public utilities shall be preserved
10 under administration by the state.

11 (3) Public lands that have been administered by the United States
12 under international treaties or interstate compacts must continue to be
13 administered by the state in conformance with those treaties or
14 compacts.

15 NEW SECTION. **Sec. 4.** The public lands under this chapter must be
16 managed by the department and used to the greatest extent possible for
17 recreation, wildlife habitat, agriculture, mineral and timber
18 production, and for the development, production, and transmission of
19 energy and other public utility services under principles of multiple
20 use that provide maximum benefit to the people of the state.

21 NEW SECTION. **Sec. 5.** (1) Proceeds of sales, fees, rents,
22 royalties, or other money paid or due the state under this chapter must
23 be deposited with the state treasurer to be credited to the general
24 fund. However, the department shall deposit with each affected county
25 in which lands are transferred:

26 (a) An amount in equal proportion to revenues now or which would
27 have been received by the county from revenue sharing programs
28 established on those federal lands; and

29 (b) At least twenty-five percent of the gross revenues earned by
30 the state on the transferred lands.

31 (2) Where leases of the public lands are sought, annual fees not to
32 exceed fair market value must be charged, with provision in each lease
33 for tenure by the lessee.

34 NEW SECTION. **Sec. 6.** (1) The state of Washington has exclusive
35 jurisdiction to enforce this chapter.

1 (2) A citizen of this state may institute a civil action to recover
2 damages for any injury or loss that is sustained as the result of a
3 violation of this chapter.

4 (3) A person who attempts to exercise jurisdiction over the public
5 lands under this chapter in a manner not permitted by the laws of this
6 state is subject to imprisonment for not less than two years nor more
7 than ten years.

8 (4) A corporation or other entity that attempts to exercise
9 jurisdiction over the public lands under this chapter in a manner not
10 permitted by the laws of this state is subject to a fine of not more
11 than five thousand dollars.

12 NEW SECTION. **Sec. 7.** (1) The department of natural resources
13 shall conduct a study of the public lands of this state to determine
14 which lands should be:

15 (a) Made available for disposition; and

16 (b) Retained by the state as habitat for wildlife or for
17 recreational or other public purposes.

18 (2) The department of natural resources shall submit a report of
19 its findings and recommendations to the legislature by January 1, 2012.

20 NEW SECTION. **Sec. 8.** Sections 2 through 6 of this act constitute
21 a new chapter in Title 79 RCW.

22 NEW SECTION. **Sec. 9.** If any provision of this act or its
23 application to any person or circumstance is held invalid, the
24 remainder of the act or the application of the provision to other
25 persons or circumstances is not affected.

26 NEW SECTION. **Sec. 10.** This act takes effect January 1, 2012, if
27 the proposed amendment to Article XXVI of the state Constitution
28 (Senate Joint Resolution No. (S-0201.1/11)) revoking this
29 state's disclaimer of rights to unappropriated public lands is validly
30 submitted to and is approved and ratified by the voters at the next
31 general election. If the proposed amendment is not approved and
32 ratified, this act is void in its entirety.

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