
SUBSTITUTE SENATE BILL 5054

State of Washington

63rd Legislature

2013 Regular Session

By Senate Ways & Means (originally sponsored by Senators Honeyford, Smith, Schoesler, Benton, Pearson, Ericksen, and Hewitt)

READ FIRST TIME 03/01/13.

1 AN ACT Relating to establishing a process for the acquisition of
2 habitat and recreation lands by the state; amending RCW 77.12.037,
3 77.12.220, 79.70.030, 79.71.040, and 79A.05.095; reenacting and
4 amending RCW 79A.05.030; adding a new section to chapter 77.12 RCW;
5 adding a new section to chapter 43.30 RCW; and adding a new section to
6 chapter 79A.05 RCW.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 77.12 RCW
9 to read as follows:

10 (1) In order to acquire real property for purposes of wildlife
11 areas, water access sites, or other habitat or recreation purposes, the
12 department shall:

13 (a) Submit a request for real property acquisition and the
14 materials required under subsection (2) of this section to the
15 appropriate committees of the senate and house of representatives and
16 the office of financial management; and

17 (b) Receive specific authorization from the legislature to acquire
18 the real property that is the subject of the request, unless the
19 department determines under subsection (2) of this section that one-

1 time and ongoing operations and maintenance costs and any applicable
2 payments in lieu of real property taxes can be funded within existing
3 appropriation levels.

4 (2) A real property acquisition request must include information on
5 the proposed acquisition including information on the real property,
6 the purpose of the acquisition, and the intended use of the real
7 property. In addition, the department shall:

8 (a) Develop and include a plan for the operation and maintenance of
9 the property including: (i) Ongoing and one-time actions and projects
10 associated with the operation and maintenance of that property; (ii)
11 the anticipated and range of potential operating and capital costs
12 associated with the operation and maintenance of that property; and
13 (iii) the anticipated funding source for these operating and capital
14 costs, including the projected availability of funds from each source;
15 and

16 (b)(i) Identify the anticipated and range of potential costs
17 associated with the payment of amounts in lieu of real property taxes
18 on that property pursuant to the election and payments authorized under
19 RCW 77.12.201, 77.12.203, and 79A.15.120, if applicable; and (ii)
20 identify the anticipated funding source for these costs, including the
21 projected availability of funds from each source, if applicable.

22 (3) The department may include multiple requests for real property
23 acquisition in one submittal, as long as the material for each
24 individual acquisition request meets the requirements of this section.

25 **Sec. 2.** RCW 77.12.037 and 2000 c 107 s 4 are each amended to read
26 as follows:

27 (1) The commission may acquire by gift, easement, purchase, lease,
28 or condemnation lands, buildings, water rights, rights-of-way, or other
29 necessary property, and construct and maintain necessary facilities for
30 purposes consistent with this title. The commission may authorize the
31 director to acquire property under this section, but the power of
32 condemnation may only be exercised by the director when an
33 appropriation has been made by the legislature for the acquisition of
34 a specific property, except to clear title and acquire access
35 rights-of-way. Real property acquisitions by the commission or
36 department are subject to the applicable requirements of section 1 of
37 this act.

1 (2) The commission may sell, lease, convey, or grant concessions
2 upon real or personal property under the control of the department.

3 **Sec. 3.** RCW 77.12.220 and 2000 c 107 s 219 are each amended to
4 read as follows:

5 (1) For purposes of this title, the commission may make agreements
6 to obtain real or personal property or to transfer or convey property
7 held by the state to the United States or its agencies or
8 instrumentalities, units of local government of this state, public
9 service companies, or other persons, if in the judgment of the
10 commission and the attorney general the transfer and conveyance is
11 consistent with public interest. For purposes of this section, "local
12 government" means any city, town, county, special district, municipal
13 corporation, or quasi-municipal corporation.

14 (2) If the commission agrees to a transfer or conveyance under this
15 section or to a sale or return of real property under RCW 77.12.210,
16 the director shall certify, with the attorney general, to the governor
17 that the agreement has been made. The certification shall describe the
18 real property. The governor then may execute and the secretary of
19 state attest and deliver to the appropriate entity or person the
20 instrument necessary to fulfill the agreement.

21 (3) Real property acquisitions by the commission or department are
22 subject to the applicable requirements of section 1 of this act.

23 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.30 RCW
24 under the subchapter heading "Part 5 powers and duties--general" to
25 read as follows:

26 (1) In order to acquire real property for purposes of a natural
27 area preserve or natural resources conservation area or other habitat
28 or riparian protection purposes under chapter 79.70 or 79.71 RCW or RCW
29 79A.15.120, the department shall:

30 (a) Submit a request for real property acquisition and the
31 materials required under subsection (2) of this section to the
32 appropriate committees of the senate and house of representatives and
33 the office of financial management; and

34 (b) Receive specific authorization from the legislature to acquire
35 the real property that is the subject of the request, unless the
36 department determines under subsection (2) of this section that one-

1 time and ongoing operations and maintenance costs and any applicable
2 payments in lieu of real property taxes can be funded within existing
3 appropriation levels.

4 (2) A real property acquisition request must include information on
5 the proposed acquisition including information on the real property,
6 the purpose of the acquisition, and the intended use of the real
7 property. In addition, the department shall:

8 (a) Develop and include a plan for the operation and maintenance of
9 the property including: (i) Ongoing and one-time actions and projects
10 associated with the operation and maintenance of that property; (ii)
11 the anticipated and range of potential operating and capital costs
12 associated with the operation and maintenance of that property; and
13 (iii) the anticipated funding source for these operating and capital
14 costs, including the projected availability of funds from each source;
15 and

16 (b)(i) Identify the anticipated and range of potential costs
17 associated with the payment of amounts in lieu of real property taxes
18 on that property pursuant to the payments authorized under RCW
19 79.70.130, 79.71.130, and 79A.15.120, if applicable; and (ii) identify
20 the anticipated funding source for these costs, including the projected
21 availability of funds from each source, if applicable.

22 (3) The department may include multiple requests for real property
23 acquisition in one submittal, as long as the material for each
24 individual acquisition request meets the requirements of this section.

25 **Sec. 5.** RCW 79.70.030 and 2003 c 334 s 549 are each amended to
26 read as follows:

27 In order to set aside, preserve, and protect natural areas within
28 the state, the department is authorized, in addition to any other
29 powers, to:

30 (1) Establish the criteria for selection, acquisition, management,
31 protection, and use of such natural areas, including:

32 (a) Limiting public access to natural area preserves consistent
33 with the purposes of this chapter. Where appropriate, and on a case-
34 by-case basis, a buffer zone with an increased low level of public
35 access may be created around the environmentally sensitive areas;

36 (b) Developing a management plan for each designated natural area
37 preserve. The plan must identify the significant resources to be

1 conserved consistent with the purposes of this chapter and identify the
2 areas with potential for low-impact public and environmental
3 educational uses. The plan must specify the types of management
4 activities and public uses that are permitted, consistent with the
5 purposes of this chapter. The department must make the plans available
6 for review and comment by the public, and state, tribal, and local
7 agencies, prior to final approval;

8 (2) Cooperate or contract with any federal, state, or local
9 governmental agency, private organizations, or individuals in carrying
10 out the purpose of this chapter;

11 (3) Consistent with the plan and the applicable requirements of
12 section 4 of this act, acquire by gift, devise, purchase, grant,
13 dedication, or means other than eminent domain, the fee or any lesser
14 right or interest in real property which shall be held and managed as
15 a natural area;

16 (4) Acquire by gift, devise, grant, or donation any personal
17 property to be used in the acquisition and/or management of natural
18 areas;

19 (5) Inventory existing public, state, and private lands in
20 cooperation with the council to assess possible natural areas to be
21 preserved within the state;

22 (6) Maintain a natural heritage program to provide assistance in
23 the selection and nomination of areas containing natural heritage
24 resources for registration or dedication. The program shall maintain
25 a classification of natural heritage resources, an inventory of their
26 locations, and a data bank for such information. The department shall
27 cooperate with the department of fish and wildlife in the selection and
28 nomination of areas from the data bank that relate to critical wildlife
29 habitats. Information from the data bank shall be made available to
30 public and private agencies and individuals for environmental
31 assessment and proprietary land management purposes. Usage of the
32 classification, inventory, or data bank of natural heritage resources
33 for any purpose inconsistent with the natural heritage program is not
34 authorized;

35 (7) Prepare a natural heritage plan which shall govern the natural
36 heritage program in the conduct of activities to create and manage a
37 system of natural areas that includes natural resources conservation

1 areas, and may include areas designated under the research natural area
2 program on federal lands in the state;

3 (a) The plan shall list the natural heritage resources to be
4 considered for registration and shall provide criteria for the
5 selection and approval of natural areas under this chapter;

6 (b) The department shall provide opportunities for input, comment,
7 and review to the public, other public agencies, and private groups
8 with special interests in natural heritage resources during preparation
9 of the plan;

10 (c) Upon approval by the council and adoption by the department,
11 the plan shall be updated and submitted biennially to the appropriate
12 committees of the legislature for their information and review. The
13 plan shall take effect ninety days after the adjournment of the
14 legislative session in which it is submitted unless the reviewing
15 committees suggest changes or reject the plan; and

16 (8) Maintain a state register of natural areas containing
17 significant natural heritage resources to be called the Washington
18 register of natural area preserves. Selection of natural areas for
19 registration shall be in accordance with criteria listed in the natural
20 heritage plan and accomplished through voluntary agreement between the
21 owner of the natural area and the department. No privately owned lands
22 may be proposed to the council for registration without prior notice to
23 the owner or registered without voluntary consent of the owner. No
24 state or local governmental agency may require such consent as a
25 condition of any permit or approval of or settlement of any civil or
26 criminal proceeding or to penalize any landowner in any way for failure
27 to give, or for withdrawal of, such consent.

28 (a) The department shall adopt rules as authorized by RCW 43.12.065
29 and 79.70.030(1) and chapter 34.05 RCW relating to voluntary natural
30 area registration.

31 (b) After approval by the council, the department may place sites
32 onto the register or remove sites from the register.

33 (c) The responsibility for management of registered natural area
34 preserves shall be with the preserve owner. A voluntary management
35 agreement may be developed between the department and the owners of the
36 sites on the register.

37 (d) Any public agency may register lands under provisions of this
38 chapter.

1 **Sec. 6.** RCW 79.71.040 and 1987 c 472 s 4 are each amended to read
2 as follows:

3 The department is authorized to acquire property or less than fee
4 interests in property, as defined by RCW 64.04.130, by all means,
5 except eminent domain, for creating natural resources conservation
6 areas, where the acquisition meets the applicable requirements of
7 section 4 of this act and is the best way to achieve the purposes of
8 this chapter. Areas acquired or assembled by the department for
9 conservation purposes will be designated as "Washington natural
10 resources conservation areas."

11 NEW SECTION. **Sec. 7.** A new section is added to chapter 79A.05 RCW
12 to read as follows:

13 (1) In order to acquire real property, the commission shall:

14 (a) Submit a request for real property acquisition and the
15 materials required under subsection (2) of this section to the
16 appropriate committees of the senate and house of representatives and
17 the office of financial management; and

18 (b) Receive specific authorization from the legislature to acquire
19 the real property that is the subject of the request, unless the
20 commission determines under subsection (2) of this section that one-
21 time and ongoing operations and maintenance costs can be funded within
22 existing appropriation levels.

23 (2) A real property acquisition request must include information on
24 the proposed acquisition including information on the real property,
25 the purpose of the acquisition, and the intended use of the real
26 property. In addition, the commission shall develop and include a plan
27 for the operation and maintenance of the property including: (a)
28 Ongoing and one-time actions and projects associated with the operation
29 and maintenance of that property; (b) the anticipated and range of
30 potential operating and capital costs associated with the operation and
31 maintenance of that property; and (c) the anticipated funding source
32 for these operating and capital costs, including the projected
33 availability of funds from each source.

34 (3) The commission may include multiple requests for real property
35 acquisition in one submittal, as long as the material for each
36 individual acquisition request meets the requirements of this section.

1 **Sec. 8.** RCW 79A.05.030 and 2005 c 373 s 1 and 2005 c 360 s 5 are
2 each reenacted and amended to read as follows:

3 The commission shall:

4 (1) Have the care, charge, control, and supervision of all parks
5 and parkways acquired or set aside by the state for park or parkway
6 purposes.

7 (2) Adopt policies, and adopt, issue, and enforce rules pertaining
8 to the use, care, and administration of state parks and parkways. The
9 commission shall cause a copy of the rules to be kept posted in a
10 conspicuous place in every state park to which they are applicable, but
11 failure to post or keep any rule posted shall be no defense to any
12 prosecution for the violation thereof.

13 (3) Permit the use of state parks and parkways by the public under
14 such rules as shall be adopted.

15 (4) Clear, drain, grade, seed, and otherwise improve or beautify
16 parks and parkways, and erect structures, buildings, fireplaces, and
17 comfort stations and build and maintain paths, trails, and roadways
18 through or on parks and parkways.

19 (5) Grant concessions or leases in state parks and parkways, upon
20 such rentals, fees, or percentage of income or profits and for such
21 terms, in no event longer than fifty years, and upon such conditions as
22 shall be approved by the commission: PROVIDED, That leases exceeding
23 a twenty-year term shall require a unanimous vote of the commission:
24 PROVIDED FURTHER, That if, during the term of any concession or lease,
25 it is the opinion of the commission that it would be in the best
26 interest of the state, the commission may, with the consent of the
27 concessionaire or lessee, alter and amend the terms and conditions of
28 such concession or lease: PROVIDED FURTHER, That television station
29 leases shall be subject to the provisions of RCW 79A.05.085, only:
30 PROVIDED FURTHER, That the rates of such concessions or leases shall be
31 renegotiated at five-year intervals. No concession shall be granted
32 which will prevent the public from having free access to the scenic
33 attractions of any park or parkway.

34 (6) Employ such assistance as it deems necessary. Commission
35 expenses relating to its use of volunteer assistance shall be limited
36 to premiums or assessments for the insurance of volunteers by the
37 department of labor and industries, compensation of staff who assist
38 volunteers, materials and equipment used in authorized volunteer

1 projects, training, reimbursement of volunteer travel as provided in
2 RCW 43.03.050 and 43.03.060, and other reasonable expenses relating to
3 volunteer recognition. The commission, at its discretion, may waive
4 commission fees otherwise applicable to volunteers. The commission
5 shall not use volunteers to replace or supplant classified positions.
6 The use of volunteers may not lead to the elimination of any employees
7 or permanent positions in the bargaining unit.

8 (7) By majority vote of its authorized membership and consistent
9 with the applicable requirements of section 7 of this act, select and
10 purchase or obtain options upon, lease, or otherwise acquire for and in
11 the name of the state such tracts of land, including shore and tide
12 lands, for park and parkway purposes as it deems proper. If the
13 commission cannot acquire any tract at a price it deems reasonable, it
14 may, by majority vote of its authorized membership, obtain title
15 thereto, or any part thereof, by condemnation proceedings conducted by
16 the attorney general as provided for the condemnation of rights-of-way
17 for state highways. Option agreements executed under authority of this
18 subsection shall be valid only if:

19 (a) The cost of the option agreement does not exceed one dollar;
20 and

21 (b) Moneys used for the purchase of the option agreement are from
22 (i) funds appropriated therefor, or (ii) funds appropriated for
23 undesignated land acquisitions, or (iii) funds deemed by the commission
24 to be in excess of the amount necessary for the purposes for which they
25 were appropriated; and

26 (c) The maximum amount payable for the property upon exercise of
27 the option does not exceed the appraised value of the property.

28 (8) Cooperate with the United States, or any county or city of this
29 state, in any matter pertaining to the acquisition, development,
30 redevelopment, renovation, care, control, or supervision of any park or
31 parkway, and enter into contracts in writing to that end. All parks or
32 parkways, to which the state contributed or in whose care, control, or
33 supervision the state participated pursuant to the provisions of this
34 section, shall be governed by the provisions hereof.

35 (9) Within allowable resources, maintain policies that increase the
36 number of people who have access to free or low-cost recreational
37 opportunities for physical activity, including noncompetitive physical
38 activity.

1 (10) Adopt rules establishing the requirements for a criminal
2 history record information search for the following: Job applicants,
3 volunteers, and independent contractors who have unsupervised access to
4 children or vulnerable adults, or who will be responsible for
5 collecting or disbursing cash or processing credit/debit card
6 transactions. These background checks will be done through the
7 Washington state patrol criminal identification section and may include
8 a national check from the federal bureau of investigation, which shall
9 be through the submission of fingerprints. A permanent employee of the
10 commission, employed as of July 24, 2005, is exempt from the provisions
11 of this subsection.

12 **Sec. 9.** RCW 79A.05.095 and 1999 c 249 s 901 are each amended to
13 read as follows:

14 The commission may, consistent with the applicable requirements of
15 section 7 of this act, receive and accept donations of lands for state
16 park purposes, and shall be responsible for the management and control
17 of all lands so acquired. It may from time to time recommend to the
18 legislature the acquisition of lands for park purposes by purchase or
19 condemnation.

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