
SENATE BILL 6088

State of Washington 60th Legislature 2007 Regular Session

By Senators Jacobsen, Morton, Fraser, Brandland, Hargrove and Rasmussen

Read first time 02/19/2007. Referred to Committee on Natural Resources, Ocean & Recreation.

1 AN ACT Relating to state trust lands; amending RCW 79.13.010,
2 79.13.060, 79.13.110, 79.17.200, 79.19.010, 79.19.020, 79.19.030,
3 79.19.070, and 79.19.080; reenacting and amending RCW 79.17.010 and
4 79.17.020; adding a new section to chapter 79.10 RCW; adding a new
5 section to chapter 79.17 RCW; and creating new sections.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that state
8 demographic, economic, environmental, and climate trends result in a
9 need to change management policies of state lands. Recent studies
10 indicate that a continuing loss of working timber lands may threaten
11 the long-term outlook for the state's timber products industry. The
12 majority of revenues from state lands are derived from the harvest of
13 timber. The economic activity and jobs in the timber products industry
14 also produce other tax revenues important to local communities and the
15 beneficiaries of income from state lands. Continuation of this primary
16 source of revenue is dependent on the continued viability of the
17 state's timber products industry.

18 (2) The legislature also finds that long-term growth in state
19 population and pressures from environmental and climate changes will

1 create important new values derived from state natural resource lands.
2 In addition to income from the sustainable harvest of timber, these
3 lands also provide water storage, improved water quality, carbon
4 sequestration, habitat, and recreation. These additional values are
5 likely to yield very significant long-term investment returns to the
6 beneficiaries of state lands and to all the people of the state.

7 (3) The legislature also finds that increased investment of state
8 land assets in commercial properties over the past twenty years has not
9 achieved a significant diversification of the state land portfolio.
10 The acquisition of commercial properties has not sufficiently increased
11 revenues to keep pace with the growth in the state school construction
12 budget. Other state revenues have filled the gap between income from
13 state lands and the total school construction budget. In order for
14 commercial land holdings to provide sufficient revenues to reverse the
15 decline in the percentage of the school construction budget that is
16 supported by state land revenues, significant portions of state natural
17 resource lands would have to be sold or transferred. The loss of those
18 working natural resource lands would threaten the viability of
19 industries and communities dependent on these lands and would threaten
20 the main source of revenues to the beneficiaries of state lands.
21 Furthermore, commercial land holdings yield none of the long-term
22 benefits derived from state natural resource lands.

23 (4) The long-term stewardship of state lands requires a planning
24 and investment horizon that considers demographic, economic,
25 environmental, and climate trends of fifty to one hundred years or
26 more. Long-term stewardship of state lands balances the need for
27 short-term income with an equal focus on long-term benefits from state
28 lands for future generation.

29 (5) The legislature intends to preserve and enhance state land
30 holdings of working natural resource lands to achieve a sustained and
31 perpetual return for current and future generations of beneficiaries of
32 state lands. The long-term stewardship of state lands will also
33 benefit the communities that depend on these lands, and all the people
34 of the state.

35 NEW SECTION. **Sec. 2.** A new section is added to chapter 79.10 RCW
36 under the subchapter heading "general provisions" to read as follows:

37 The department shall not acquire additional commercial properties

1 as state lands after the effective date of this section. The
2 department, in cooperation with the state investment board, shall
3 develop a plan to transition commercial properties to the state
4 investment board or to land-holding firms on behalf of the state
5 investment board, or to dispose of the commercial properties and
6 reinvest the proceeds in working natural resource lands that are at
7 high risk of conversion out of working timber land status. The
8 department shall evaluate the investment return for these natural
9 resource lands at risk of conversion by also including the value of
10 leasing development rights as permitted in chapter 79.13 RCW. The
11 legislature intends that this transition will be complete by June 30,
12 2013. The department shall submit the transition plan to the
13 appropriate committees of the legislature by December 1, 2008, and
14 shall submit progress reports showing implementation of the plan by
15 December 1, 2010, and December 1, 2012.

16 **Sec. 3.** RCW 79.13.010 and 2003 c 334 s 366 are each amended to
17 read as follows:

18 (1) Subject to other provisions of this chapter and subject to
19 rules adopted by the board, the department may lease state lands for
20 purposes it deems advisable, including, but not limited to, commercial,
21 industrial, residential, agricultural, and recreational purposes in
22 order to obtain a fair market rental return to the state or the
23 appropriate constitutional or statutory trust.

24 (2) Notwithstanding any provision in this chapter to the contrary,
25 in leases for residential purposes, the board may waive or modify any
26 conditions of the lease if the waiver or modification is necessary to
27 enable any federal agency or lending institution authorized to do
28 business in this state or elsewhere in the United States to participate
29 in any loan secured by a security interest in a leasehold interest.

30 (3) Any land granted to the state by the United States may be
31 leased for any lawful purpose in such minimum acreage as may be fixed
32 by the department.

33 (4) The department shall exercise general supervision and control
34 over the lease of state lands for any lawful purpose.

35 (5) State lands leased or for which permits are issued or contracts
36 are entered into for the prospecting and extraction of valuable

1 materials, coal, oil, gas, or other hydrocarbons are subject to the
2 provisions of chapter 79.14 RCW.

3 (6) The department may also lease state lands or development rights
4 on state lands to public agencies, as defined in RCW 79.17.200.

5 **Sec. 4.** RCW 79.13.060 and 2003 c 334 s 323 are each amended to
6 read as follows:

7 (1) State lands may be leased not to exceed ten years with the
8 following exceptions:

9 (a) The lands may be leased for agricultural purposes not to exceed
10 twenty-five years, except:

11 (i) Leases that authorize tree fruit or grape production may be for
12 up to fifty-five years;

13 (ii) Share crop leases may not exceed ten years;

14 (b) The lands may be leased for commercial, industrial, business,
15 or recreational purposes not to exceed fifty-five years;

16 (c) The lands may be leased for public school, college, or
17 university purposes not to exceed seventy-five years; ~~((and))~~

18 (d) The lands may be leased for residential purposes not to exceed
19 ninety-nine years; and

20 (e) The lands and development rights on state lands may be leased
21 to public agencies, as defined in RCW 79.17.200, not to exceed
22 ninety-nine years. The leases may also include provisions for renewal
23 of lease terms.

24 (2) No lessee of state lands may remain in possession of the land
25 after the termination or expiration of the lease without the written
26 consent of the department.

27 (a) The department may authorize a lease extension for a specific
28 period beyond the term of the lease for cropping improvements for the
29 purpose of crop rotation. These improvements shall be deemed
30 authorized improvements under RCW 79.13.030.

31 (b) Upon expiration of the lease term, the department may allow the
32 lessee to continue to hold the land for a period not exceeding one year
33 upon such rent, terms, and conditions as the department may prescribe,
34 if the leased land is not otherwise utilized.

35 (c) Upon expiration of the one-year lease extension, the department
36 may issue a temporary permit to the lessee upon terms and conditions it

1 prescribes if the department has not yet determined the disposition of
2 the land for other purposes.

3 (d) The temporary permit shall not extend beyond a five-year
4 period.

5 (3) If during the term of the lease of any state lands for
6 agricultural, grazing, commercial, residential, business, or
7 recreational purposes, in the opinion of the department it is in the
8 best interest of the state so to do, the department may, on the
9 application of the lessee and in agreement with the lessee, alter and
10 amend the terms and conditions of the lease. The sum total of the
11 original lease term and any extension thereof shall not exceed the
12 limits provided in this section.

13 **Sec. 5.** RCW 79.13.110 and 2003 c 334 s 368 are each amended to
14 read as follows:

15 (1) The department may authorize the use of state land by lease at
16 state auction for initial leases or by negotiation for existing leases.

17 (2) Leases that authorize commercial, industrial, or residential
18 uses may be entered into by public auction or negotiations at the
19 option of the department. Negotiations are subject to rules approved
20 by the board.

21 (3) Leases to public agencies, as defined in RCW 79.17.200, may be
22 entered into by negotiations. The leases may allow for a lump sum
23 payment for the entire term of the lease at the beginning of the lease.
24 The department shall consider the appraised fair market value of the
25 land minus the present value of the residual value of the land at the
26 end of the lease in calculating the lump sum payment. Renewal terms
27 for the leases must include provisions for calculating appropriate
28 payments upon renewal.

29 **Sec. 6.** RCW 79.17.010 and 2003 1st sp.s. c 25 s 939 and 2003 c 334
30 s 452 are each reenacted and amended to read as follows:

31 (1) The department, with the approval of the board, may exchange
32 any state land and any timber thereon for any land of equal value in
33 order to:

34 (a) Facilitate the marketing of forest products of state lands; or

35 (b) Consolidate and block-up state timber, agricultural, or other
36 natural resource lands((+)

1 ~~(c) Acquire lands having commercial recreational leasing potential;~~
2 ~~(d) Acquire county owned lands;~~
3 ~~(e) Acquire urban property which has greater income potential or~~
4 ~~which could be more efficiently managed by the department in exchange~~
5 ~~for state urban lands as defined in RCW 79.19.100; or~~
6 ~~(f) Acquire any other lands when such exchange is determined by the~~
7 ~~board to be in the best interest of the trust for which the state land~~
8 ~~is held)).~~

9 (2) Land exchanged under this section shall not be used to reduce
10 the publicly owned forest land base.

11 (3) The board shall determine that each land exchange is in the
12 best interest of the trust for which the land is held prior to
13 authorizing the land exchange.

14 (4) ~~((During the biennium ending June 30, 2005))~~ To achieve the
15 purposes of this section, the department, with approval of the board,
16 may exchange any state land and any timber thereon for any land and
17 proceeds of equal value. Proceeds may be in the form of cash or
18 services ~~((in order to achieve the purposes established in this~~
19 ~~section))~~. Any cash received as part of an exchange transaction shall
20 be deposited in the resource management cost account to pay for
21 administrative expenses incurred in carrying out an exchange
22 transaction. The amount of proceeds received from the exchange partner
23 may not exceed five percent of the total value of the exchange. The
24 receipt of proceeds shall not change the character of the transaction
25 from an exchange to a sale.

26 **Sec. 7.** RCW 79.17.020 and 2003 1st sp.s. c 25 s 937 and 2003 c 334
27 s 209 are each reenacted and amended to read as follows:

28 (1) The board of county commissioners of any county and/or the
29 mayor and city council or city commission of any city or town and/or
30 the board shall have authority to exchange, each with the other, or
31 with the federal forest service, the federal government or any proper
32 agency thereof and/or with any private landowner, county land of any
33 character, land owned by municipalities of any character, and state
34 forest land owned by the state under the jurisdiction of the
35 department, for real property of equal value for the purpose of
36 consolidating and blocking up the respective land holdings of any

1 county, municipality, the federal government, or the state of
2 Washington or for the purpose of obtaining lands having commercial
3 recreational leasing potential.

4 (2) (~~During the biennium ending June 30, 2005,~~) The department,
5 with approval of the board, may exchange any state forest land and any
6 timber thereon for any real property and proceeds of equal value.
7 Proceeds may be in the form of cash or services in order to achieve the
8 purposes established in this section. Any cash received as part of an
9 exchange transaction shall be deposited in the forest development
10 account to pay for administrative expenses incurred in carrying out an
11 exchange transaction. The amount of proceeds received from the
12 exchange partner may not exceed five percent of the total value of the
13 exchange. The receipt of proceeds shall not change the character of
14 the transaction from an exchange to a sale.

15 **Sec. 8.** RCW 79.17.200 and 1992 c 167 s 2 are each amended to read
16 as follows:

17 (1) For the purposes of this section, "public agency" means any
18 agency, political subdivision, or unit of local government of this
19 state including, but not limited to, municipal corporations, quasi-
20 municipal corporations, special purpose districts, and local service
21 districts; any agency of the state government; any agency of the United
22 States; and any Indian tribe recognized as such by the federal
23 government.

24 (2) With the approval of the board of natural resources, the
25 department of natural resources may directly transfer, lease, or
26 dispose of real property, without public auction, in the following
27 circumstances:

28 (a) Transfers in lieu of condemnations;

29 (b) Transfers or leases to public agencies; and

30 (c) Transfers to resolve trespass and property ownership disputes.

31 (3) Real property to be transferred, leased, or disposed of under
32 this section shall be transferred, leased, or disposed of only after
33 appraisal and for at least fair market value, and only if such
34 transaction is in the best interest of the state or affected trust.

35 **Sec. 9.** RCW 79.19.010 and 2003 c 334 s 525 are each amended to
36 read as follows:

1 The legislature finds that from time to time it may be desirable
2 for the department to sell state lands which have low potential for
3 ~~((natural resource management or low income-generating potential))~~
4 long-term stewardship of state natural resource lands or which, because
5 of geographic location or other factors, are inefficient for the
6 department to manage. However, it is also important to acquire lands
7 for long-term management to replace those sold so that the publicly
8 owned natural resource land base will ~~((not))~~ be ~~((depleted))~~ enhanced
9 and the publicly owned forest land base will ~~((not))~~ be ~~((reduced))~~
10 enhanced. The purpose of this chapter is to provide a means to
11 facilitate such sales and purchases so that the ~~((diversity of public~~
12 ~~uses on the trust lands will be maintained. In making the~~
13 ~~determinations,))~~ benefits of long-term stewardship of state natural
14 resource lands are achieved in perpetuity. The department shall comply
15 with local land use plans and applicable growth management principles
16 when selling or acquiring state lands.

17 **Sec. 10.** RCW 79.19.020 and 2003 c 334 s 526 are each amended to
18 read as follows:

19 The department, with the approval of the board, may purchase
20 property at fair market value to be held in a land bank, which is
21 hereby created within the department. Property so purchased shall be
22 property ~~((which would be desirable for addition to the public lands of~~
23 ~~the state because of the potential for natural resource or income~~
24 ~~production of the property))~~ that has potential for long-term
25 stewardship of natural resource values. The total acreage held in the
26 land bank shall not exceed one thousand five hundred acres.

27 **Sec. 11.** RCW 79.19.030 and 2004 c 199 s 215 are each amended to
28 read as follows:

29 The department, with the approval of the board, may:

30 (1) Exchange property held in the land bank for any other lands of
31 equal value administered by the department, including any lands held in
32 trust~~((-))~~;

33 (2) Exchange property held in the land bank for property of equal
34 or greater value which is owned publicly or privately, and which has
35 greater potential for ~~((natural resource or income production))~~ the

1 long-term stewardship of state natural resource lands or which could be
2 more efficiently managed by the department, however, no power of
3 eminent domain is hereby granted to the department; and

4 (3) Sell property held in the land bank in the manner provided by
5 law for the sale of state lands without any requirement of platting and
6 to use the proceeds to acquire property for the land bank which has
7 greater potential for (~~natural resource or income production~~)
8 long-term stewardship of state natural resource lands or which would be
9 more efficiently managed by the department.

10 **Sec. 12.** RCW 79.19.070 and 1984 c 222 s 7 are each amended to read
11 as follows:

12 (1) There is created a land bank (~~technical~~) advisory committee,
13 consisting of (~~three~~) eight members. Membership shall consist of:
14 One member qualified by experience and training in matters pertaining
15 to land use planning and real estate appointed by the commissioner of
16 public lands, one member qualified by experience and training in public
17 trust matters appointed by the superintendent of public instruction,
18 (~~and~~) one member qualified by experience and training in financial
19 matters appointed by the state treasurer, and five members appointed by
20 the governor representing a small forest landowner, an industrial
21 forest landowner, a land conservancy organization involved in
22 preserving working timber lands, a local government representative from
23 a high growth urban area, and a local government representative from a
24 rural area with a significant timber products industry.

25 (2) The (~~technical~~) advisory committee shall provide professional
26 advice and counsel to the board of natural resources regarding land
27 bank sales, purchases, and exchanges involving urban property.

28 (3) Members of the (~~technical~~) advisory committee shall be
29 appointed for five-year terms and shall serve until a successor is
30 appointed. In the case of a vacancy the vacancy shall be filled by the
31 appointing authority. The initial term of the appointee of the
32 commissioner shall expire in three years. The initial term of the
33 appointee of the superintendent shall expire in four years. The
34 initial term of the appointee of the treasurer shall expire in five
35 years. The initial terms of two appointees by the governor shall
36 expire in three years. All terms expire December 31st.

1 (4) Members of the (~~technical~~) advisory committee shall be
2 reimbursed for travel expenses incurred in the performance of their
3 duties under RCW 43.03.050 and 43.03.060.

4 **Sec. 13.** RCW 79.19.080 and 2003 c 334 s 531 are each amended to
5 read as follows:

6 Periodically, at intervals to be determined by the board, the
7 department shall identify trust lands which are within urban growth
8 boundaries or which are expected to convert to commercial, residential,
9 or industrial uses within ten years. The department shall adhere to
10 existing local comprehensive plans, zoning classifications, and duly
11 adopted local policies when making this identification and determining
12 the fair market value of the property. The department shall prepare a
13 list of such properties with the amount of acreage, the approximate
14 value as working natural resource lands compared to the approximate
15 value if the land converts to an alternative use, the long-term natural
16 resource values of the land, and proposed alternative uses of the land.
17 For properties with significant natural resource values, the department
18 shall estimate the price for leasing development rights under chapter
19 79.13 RCW that would be required to retain the lands as working natural
20 resource lands while providing a rate of return comparable to other
21 natural resource lands. The land bank advisory committee shall review
22 the list of properties and shall recommend the appropriate future use
23 of these properties. The land bank advisory committee shall prioritize
24 retention of working natural resource lands at risk of conversion
25 through the use of transfers or leases of development rights. The land
26 bank advisory committee may also recommend lands within urban growth
27 boundaries for the high growth school district land pool specified in
28 section 14 of this act.

29 The department shall hold a public hearing on the proposal in the
30 county where the state land is located. At least fifteen days but not
31 more than thirty days before the hearing, the department shall publish
32 a public notice of reasonable size in display advertising form, setting
33 forth the date, time, and place of the hearing, at least once in one or
34 more daily newspapers of general circulation in the county and at least
35 once in one or more weekly newspapers circulated in the area where the
36 trust land is located. At the same time that the published notice is
37 given, the department shall give written notice of the hearings to the

1 departments of fish and wildlife and general administration, to the
2 parks and recreation commission, and to the county, city, or town in
3 which the property is situated. The department shall disseminate a
4 news release pertaining to the hearing among printed and electronic
5 media in the area where the trust land is located. The public notice
6 and news release also shall identify trust lands in the area which are
7 expected to convert to commercial, residential, or industrial uses
8 within ten years.

9 A summary of the testimony presented at the hearings shall be
10 prepared for the board's consideration. The board shall designate
11 trust lands which are expected to convert to commercial, residential,
12 or industrial uses as urban land. Descriptions of lands designated by
13 the board shall be made available to the county and city or town in
14 which the land is situated and for public inspection and copying at the
15 department's administrative office in Olympia, Washington and at each
16 area office.

17 ~~((The hearing and notice requirements of this section apply to
18 those trust lands which have been identified by the department prior to
19 July 1, 1984, as being expected to convert to commercial, residential,
20 or industrial uses within the next ten years, and which have not been
21 sold or exchanged prior to July 1, 1984.))~~

22 NEW SECTION. **Sec. 14.** A new section is added to chapter 79.17 RCW
23 to read as follows:

24 The legislature finds that high growth school districts are often
25 unable to acquire lands best suited for siting new schools because
26 current funding capacity is devoted to current needs. Once a new
27 school is required in a community, districts that were unable to
28 purchase land in advance of population growth must piece together
29 multiple parcels at a high cost and in locations that are not optimal
30 considering transportation needs and proximity to neighborhoods. The
31 department shall coordinate with the superintendent of public
32 instruction to assist high growth school districts in acquiring land
33 suitable for future school sites. The superintendent of public
34 instruction shall identify high growth school districts and shall
35 accept applications from these school districts for land acquisition
36 assistance. The department may use existing state land parcels if
37 appropriate, may acquire preferred parcels with land replacement funds,

1 or may trade state lands for preferred parcels. The department shall
2 hold these future school site parcels as state lands based on an
3 agreement reached with the school districts for future development.
4 The agreements must define the methodology for determining fair market
5 value of the land at the time the school district desires to develop
6 the site. The agreements must also specify how long the land will be
7 held as state land and the means of disposing of the land if it no
8 longer is desirable as a school location.

9 NEW SECTION. **Sec. 15.** This act does not affect any existing right
10 acquired or liability or obligation incurred under the sections amended
11 or under any rule or order adopted under those sections, nor does it
12 affect any proceeding instituted under those sections.

13 NEW SECTION. **Sec. 16.** If any provision of this act or its
14 application to any person or circumstance is held invalid, the
15 remainder of the act or the application of the provision to other
16 persons or circumstances is not affected.

--- END ---