

---

SENATE BILL 5054

---

State of Washington

63rd Legislature

2013 Regular Session

By Senators Honeyford, Smith, Schoesler, Benton, Pearson, Ericksen, and Hewitt

Read first time 01/16/13. Referred to Committee on Natural Resources & Parks .

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32       (b) Receive specific authorization from the legislature to acquire  
33 the real property that is the subject of the request.

34       (2) A real property acquisition request must include information on  
35 the proposed acquisition including information on the real property,  
36 the purpose of the acquisition, and the intended use of the real  
37 property. In addition, the department shall:

1 (a) Develop and include a plan for the operation and maintenance of  
2 the property including: (i) Ongoing and one-time actions and projects  
3 associated with the operation and maintenance of that property; (ii)  
4 the anticipated and range of potential operating and capital costs  
5 associated with the operation and maintenance of that property; and  
6 (iii) the anticipated funding source for these operating and capital  
7 costs, including the projected availability of funds from each source;  
8 and

9 (b)(i) Identify the anticipated and range of potential costs  
10 associated with the payment of amounts in lieu of real property taxes  
11 on that property pursuant to the payments authorized under RCW  
12 79.70.130, 79.71.130, and 79A.15.120, if applicable; and (ii) identify  
13 the anticipated funding source for these costs, including the projected  
14 availability of funds from each source, if applicable.

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

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

20 In order to set aside, preserve, and protect natural areas within  
21 the state, the department is authorized, in addition to any other  
22 powers, to:

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

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

29 (b) Developing a management plan for each designated natural area  
30 preserve. The plan must identify the significant resources to be  
31 conserved consistent with the purposes of this chapter and identify the  
32 areas with potential for low-impact public and environmental  
33 educational uses. The plan must specify the types of management  
34 activities and public uses that are permitted, consistent with the  
35 purposes of this chapter. The department must make the plans available  
36 for review and comment by the public, and state, tribal, and local  
37 agencies, prior to final approval;

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

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

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

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

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

28 (7) Prepare a natural heritage plan which shall govern the natural  
29 heritage program in the conduct of activities to create and manage a  
30 system of natural areas that includes natural resources conservation  
31 areas, and may include areas designated under the research natural area  
32 program on federal lands in the state;

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

36 (b) The department shall provide opportunities for input, comment,  
37 and review to the public, other public agencies, and private groups

1 with special interests in natural heritage resources during preparation  
2 of the plan;

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

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

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

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

26 (c) The responsibility for management of registered natural area  
27 preserves shall be with the preserve owner. A voluntary management  
28 agreement may be developed between the department and the owners of the  
29 sites on the register.

30 (d) Any public agency may register lands under provisions of this  
31 chapter.

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

34 The department is authorized to acquire property or less than fee  
35 interests in property, as defined by RCW 64.04.130, by all means,  
36 except eminent domain, for creating natural resources conservation  
37 areas, where the acquisition meets the applicable requirements of

1 section 4 of this act and is the best way to achieve the purposes of  
2 this chapter. Areas acquired or assembled by the department for  
3 conservation purposes will be designated as "Washington natural  
4 resources conservation areas."

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

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

8 (a) Submit a request for real property acquisition and the  
9 materials required under subsection (2) of this section to the  
10 appropriate committees of the senate and house of representatives and  
11 the office of financial management; and

12 (b) Receive specific authorization from the legislature to acquire  
13 the real property that is the subject of the request.

14 (2) A real property acquisition request must include information on  
15 the proposed acquisition including information on the real property,  
16 the purpose of the acquisition, and the intended use of the real  
17 property. In addition, the commission shall develop and include a plan  
18 for the operation and maintenance of the property including: (a)  
19 Ongoing and one-time actions and projects associated with the operation  
20 and maintenance of that property; (b) the anticipated and range of  
21 potential operating and capital costs associated with the operation and  
22 maintenance of that property; and (c) the anticipated funding source  
23 for these operating and capital costs, including the projected  
24 availability of funds from each source.

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

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

30 The commission shall:

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

34 (2) Adopt policies, and adopt, issue, and enforce rules pertaining  
35 to the use, care, and administration of state parks and parkways. The  
36 commission shall cause a copy of the rules to be kept posted in a

1 conspicuous place in every state park to which they are applicable, but  
2 failure to post or keep any rule posted shall be no defense to any  
3 prosecution for the violation thereof.

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

6 (4) Clear, drain, grade, seed, and otherwise improve or beautify  
7 parks and parkways, and erect structures, buildings, fireplaces, and  
8 comfort stations and build and maintain paths, trails, and roadways  
9 through or on parks and parkways.

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

25 (6) Employ such assistance as it deems necessary. Commission  
26 expenses relating to its use of volunteer assistance shall be limited  
27 to premiums or assessments for the insurance of volunteers by the  
28 department of labor and industries, compensation of staff who assist  
29 volunteers, materials and equipment used in authorized volunteer  
30 projects, training, reimbursement of volunteer travel as provided in  
31 RCW 43.03.050 and 43.03.060, and other reasonable expenses relating to  
32 volunteer recognition. The commission, at its discretion, may waive  
33 commission fees otherwise applicable to volunteers. The commission  
34 shall not use volunteers to replace or supplant classified positions.  
35 The use of volunteers may not lead to the elimination of any employees  
36 or permanent positions in the bargaining unit.

37 (7) By majority vote of its authorized membership and consistent  
38 with the applicable requirements of section 7 of this act, select and

1 purchase or obtain options upon, lease, or otherwise acquire for and in  
2 the name of the state such tracts of land, including shore and tide  
3 lands, for park and parkway purposes as it deems proper. If the  
4 commission cannot acquire any tract at a price it deems reasonable, it  
5 may, by majority vote of its authorized membership, obtain title  
6 thereto, or any part thereof, by condemnation proceedings conducted by  
7 the attorney general as provided for the condemnation of rights-of-way  
8 for state highways. Option agreements executed under authority of this  
9 subsection shall be valid only if:

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

12 (b) Moneys used for the purchase of the option agreement are from  
13 (i) funds appropriated therefor, or (ii) funds appropriated for  
14 undesignated land acquisitions, or (iii) funds deemed by the commission  
15 to be in excess of the amount necessary for the purposes for which they  
16 were appropriated; and

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

19 (8) Cooperate with the United States, or any county or city of this  
20 state, in any matter pertaining to the acquisition, development,  
21 redevelopment, renovation, care, control, or supervision of any park or  
22 parkway, and enter into contracts in writing to that end. All parks or  
23 parkways, to which the state contributed or in whose care, control, or  
24 supervision the state participated pursuant to the provisions of this  
25 section, shall be governed by the provisions hereof.

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

30 (10) Adopt rules establishing the requirements for a criminal  
31 history record information search for the following: Job applicants,  
32 volunteers, and independent contractors who have unsupervised access to  
33 children or vulnerable adults, or who will be responsible for  
34 collecting or disbursing cash or processing credit/debit card  
35 transactions. These background checks will be done through the  
36 Washington state patrol criminal identification section and may include  
37 a national check from the federal bureau of investigation, which shall

1 be through the submission of fingerprints. A permanent employee of the  
2 commission, employed as of July 24, 2005, is exempt from the provisions  
3 of this subsection.

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

6 The commission may, consistent with the applicable requirements of  
7 section 7 of this act, receive and accept donations of lands for state  
8 park purposes, and shall be responsible for the management and control  
9 of all lands so acquired. It may from time to time recommend to the  
10 legislature the acquisition of lands for park purposes by purchase or  
11 condemnation.

--- END ---