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**Agriculture & Natural Resources  
Committee**

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**HB 2321**

**Brief Description:** Clarifying the definitions of certain natural resources terms.

**Sponsors:** Representatives Linville, Schoesler, Sump, Grant and Pearson; by request of Commissioner of Public Lands.

**Brief Summary of Bill**

- Changes certain definitions in the Public Lands Act.
- Alters provisions impacting the Department of Natural Resources concerning the voiding of legal transactions, the unlawful removal of valuable materials from state-owned land, and the acceptance of land and cash grants to the state.

**Hearing Date:** 1/14/04

**Staff:** Jason Callahan (786-7117).

**Background:**

Definitions

The Department of Natural Resources (DNR) manages more than five million acres of state-owned land, which is more than any other state or local entity in Washington. Management authority and direction for the DNR is located in various sections of Title 79, the Public Lands Act. The scope and effect of those statutory directions depend on the term used to describe state land. The terms "state lands," "public lands," "state forest lands," and "aquatic lands" are among the terms that can be used to describe state-owned land, and they all have different meanings.

The term "public lands" is described as any lands of the State of Washington, and includes state trust lands that are not reserved for a specific use, aquatic lands, and those lands falling under the definition of "state lands" [RCW 79.02.010(9)]. The term "state lands" includes lands held in trust for common schools or universities, capitol building lands, institutional lands, and all public lands except for aquatic lands [RCW 79.02.101(11)]. Not included in either definitions are state forest lands and some lands held for a specific purpose, such as natural area preserves, land bank lands, and natural resource conservation areas.

Fixtures attached to "state lands" that change the value of the land are defined as "improvements." This definition only applies to those lands falling under the definition of "state lands" and does not include fixtures on other public lands.

#### Voiding of Legal Transactions

If the DNR discovers that a sale, transfer, or lease of state lands was entered into through fraud or misrepresentation on the side of the other party, then the contract must be held void. In cases of fraud, but not misrepresentation, the fraudulent party is not eligible to be reimbursed for any payments made to the DNR [RCW 79.02.050].

#### Unlawful Removal of Valuable Materials

Any person who unlawfully removes valuable materials from public lands is generally liable to the State for three times the amount of damage caused [RCW 79.02.300]. The definition of "valuable materials" excludes minerals, coal, petroleum, and gas [RCW 79.02.010].

#### Land Acceptance

The DNR is authorized to accept grants of land. Upland grants become part of the state forests [RCW 79.10.020], while grants of aquatic lands are held in trust with the State's other aquatic lands [RCW 79.90.580]. The DNR does not have the specific authority to accept cash.

#### **Summary of Bill:**

##### Definitions

Certain definitions in the Public Lands Act are modified. The definition of "public lands" is expanded to include all lands administered by the DNR. This definition includes aquatic lands, state forest lands, and state lands. By not excluding any lands held for a specific purpose, this definition also encompasses holdings such as natural area preserves, land bank lands, and natural resource conservation areas. The definition of "state lands" is expanded to include land banks and escheat donations. The definition of "improvements" is expanded to cover all DNR-administered lands, and not just "state lands".

##### Changing "state land" to "public land"

The term "state lands" is changed to "public lands" in multiple sections, resulting in a broadening of the effect of the changed sections. This includes:

- Expanding the authority to recall a lease, contract, or deed to correct errors to all public lands, and not just state lands.
- Expanding the authority to void a legal transaction to all public lands, and not just state lands.
- Expanding the optional requirement that the DNR may comply with local zoning ordinances to all public lands, and not just state lands.
- Expanding the authority of the DNR to set rules or procedures governing the sale of valuable materials to aquatic lands and other public lands, and not just state lands and state forest lands.

- Expanding the authority of the DNR to grant easement rights to aquatic lands and other public lands, and not just state lands and state forest lands.

#### Voiding of Legal Transactions

Sales, transfers, or leases entered into through fraud or misrepresentation are no longer necessarily void. Instead, the DNR has the option to void, or not void, the legal transaction. Both fraudulent parties, and parties misrepresenting themselves in the legal transactions, are prohibited from receiving reimbursement of any funds paid to the DNR.

#### Unlawful Removal of Valuable Materials

The provision that generally levies a fine of three times the value of any valuable materials unlawfully removed from public lands is expanded to also include the unlawful removal of minerals, coal, petroleum, and gas.

#### Land Acceptance

The authority to accept grants of land is expanded to also allow for the acceptance of cash. Accepted land grants no longer necessarily have to become part of the state forest holdings.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.