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HOUSE BILL 2084

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State of Washington

59th Legislature

2005 Regular Session

By Representative B. Sullivan

Read first time 02/17/2005. Referred to Committee on Natural Resources, Ecology & Parks.

1 AN ACT Relating to trust land management; amending RCW 79.17.210,  
2 79.64.040, 79.15.510, 79.15.510, 43.30.205, and 79.17.200; reenacting  
3 and amending RCW 79.17.010; adding new sections to chapter 79.64 RCW;  
4 creating a new section; providing an effective date; providing an  
5 expiration date; and declaring an emergency.

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

7 **Sec. 1.** RCW 79.17.210 and 2003 c 334 s 118 are each amended to  
8 read as follows:

9 (1) The legislature finds that the department has a need to  
10 maintain the real property asset base it manages and needs an  
11 accounting mechanism to complete transactions without reducing the real  
12 property asset base.

13 (2) The natural resources real property replacement account is  
14 created in the state treasury. This account shall consist of funds  
15 transferred or paid for the disposal or transfer of real property by  
16 the department under RCW 79.17.200. The funds in this account shall be  
17 used solely for the acquisition of replacement real property (~~and may~~  
18 ~~be spent only when, and as, authorized by legislative appropriation~~).  
19 Only the commissioner or the commissioner's designee may authorize

1 expenditures from the account. The account is subject to allotment  
2 procedures under chapter 43.88 RCW, but an appropriation is not  
3 required for expenditures.

4 **Sec. 2.** RCW 79.17.010 and 2003 1st sp.s. c 25 s 939 and 2003 c 334  
5 s 452 are each reenacted and amended to read as follows:

6 (1) The department, with the approval of the board, may exchange  
7 any state land and any timber (~~thereon~~) on the land for any land of  
8 equal value in order to:

- 9 (a) Facilitate the marketing of forest products of state lands;
- 10 (b) Consolidate and block-up state lands;
- 11 (c) Acquire lands having commercial recreational leasing potential;
- 12 (d) Acquire county-owned lands;
- 13 (e) Acquire urban property which has greater income potential or  
14 which could be more efficiently managed by the department in exchange  
15 for state urban lands as defined in RCW 79.19.100; or
- 16 (f) Acquire any other lands when such exchange is determined by the  
17 board to be in the best interest of the trust for which the state land  
18 is held.

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

21 (3) The board shall determine that each land exchange under this  
22 section is in the best interest of the trust for which the land is held  
23 prior to authorizing the land exchange.

24 (4) (~~During the biennium ending June 30, 2005,~~) The department,  
25 with approval of the board, may exchange any state land and any timber  
26 (~~thereon~~) on the land for any land and proceeds of equal value.  
27 Proceeds may be in the form of cash or services in order to achieve the  
28 purposes established in this section. Any cash received as part of an  
29 exchange transaction shall be deposited in the resource management cost  
30 account to pay for administrative expenses incurred in carrying out an  
31 exchange transaction. The amount of proceeds received from the  
32 exchange partner may not exceed five percent of the total value of the  
33 exchange. The receipt of proceeds shall not change the character of  
34 the transaction from an exchange to a sale.

35 **Sec. 3.** RCW 79.64.040 and 2004 c 199 s 227 are each amended to  
36 read as follows:

1       (1) The board shall determine the amount deemed necessary in order  
2 to achieve the purposes of this chapter and shall provide (~~(by rule)~~)  
3 for the deduction of this amount from the moneys received from all  
4 leases, sales, contracts, licenses, permits, easements, and rights of  
5 way issued by the department and affecting state lands and aquatic  
6 lands, provided that no deduction shall be made from the proceeds from  
7 agricultural college lands. (~~(Moneys received as deposits from~~  
8 ~~successful bidders, advance payments, and security under RCW 79.15.100,~~  
9 ~~79.15.080, and 79.11.150 prior to December 1, 1981, which have not been~~  
10 ~~subjected to deduction under this section are not subject to deduction~~  
11 ~~under this section.)~~)

12       (2) Except as provided in section 4 of this act, the deductions  
13 authorized under this section shall (~~(in no event)~~) not exceed twenty-  
14 five percent of the moneys received by the department in connection  
15 with any one transaction pertaining to state lands and aquatic lands  
16 other than second class tide and shore lands and the beds of navigable  
17 waters(~~(, and)~~).

18       (3) The deductions authorized under this section shall not exceed  
19 fifty percent of the moneys received by the department in connection to  
20 any one transaction pertaining to second class tide and shore lands and  
21 the beds of navigable waters.

22       (4) In the event that the department sells logs using the contract  
23 harvesting process described in RCW 79.15.500 through 79.15.530, the  
24 moneys received subject to this section are the net proceeds from the  
25 contract harvesting sale.

26       NEW SECTION. Sec. 4. A new section is added to chapter 79.64 RCW  
27 to read as follows:

28       (1) From July 1, 2005, until June 30, 2015, the board may authorize  
29 the department to deduct up to thirty percent of the moneys received by  
30 the department in connection with any one transaction pertaining to  
31 state lands.

32       (2) Any deductions authorized by the board under this section must  
33 be reviewed and reauthorized by the board each biennium.

34       (3) Deductions authorized by this section shall replace the  
35 deductions authorized by RCW 79.64.040(2), and shall be deposited into  
36 the resource management cost account created in RCW 79.64.020.

1 (4) A portion of any revenue generated by a deduction authorized  
2 under this section in excess of twenty-five percent must be used by the  
3 department for variable density thinnings, silvicultural operations  
4 designed to address forest health issues, and other activities designed  
5 to develop complex forest stands.

6 **Sec. 5.** RCW 79.15.510 and 2004 c 218 s 6 are each amended to read  
7 as follows:

8 (1) The department may establish a contract harvesting program for  
9 directly contracting for the removal of timber and other valuable  
10 materials from state lands and state forest lands and for conducting  
11 silvicultural treatments consistent with RCW 79.15.540.

12 (2) The contract requirements must be compatible with the office of  
13 financial management's guide to public service contracts.

14 (3) The department may not use contract harvesting for more than  
15 ((ten)) thirty percent of the total annual volume of timber offered for  
16 sale. However, volume removed primarily to address an identified  
17 forest health issue under RCW 79.15.540 may not be included in  
18 calculating the ((ten)) thirty percent annual limit of contract  
19 harvesting sales.

20 **Sec. 6.** RCW 79.15.510 and 2003 c 313 s 3 are each amended to read  
21 as follows:

22 (1) The department may establish a contract harvesting program by  
23 directly contracting for the removal of timber and other valuable  
24 materials from state lands and state forest lands.

25 (2) The contract requirements must be compatible with the office of  
26 financial management's guide to public service contracts.

27 (3) The department may not use contract harvesting for more than  
28 ((ten)) thirty percent of the total annual volume of timber offered for  
29 sale.

30 **Sec. 7.** RCW 43.30.205 and 2003 c 334 s 104 are each amended to  
31 read as follows:

- 32 (1) The board shall consist of ((six)) seven members:  
33 (a) The governor or the governor's designee((τ))i  
34 (b) The superintendent of public instruction((τ))i  
35 (c) The commissioner of public lands((τ))i

1       (d) The dean of the college of forest resources of the University  
2 of Washington((τ));

3       (e) The dean of the college of agriculture of Washington State  
4 University((τ));

5       (f) A single representative appointed by the director of the  
6 department of fish and wildlife, who shall serve a four-year renewable  
7 term; and

8       (g) A representative of those counties that contain state forest  
9 lands acquired or transferred under RCW 79.22.010, 79.22.040, and  
10 79.22.020.

11       (2) The county representative on the board shall be selected by the  
12 legislative authorities of those counties that contain state forest  
13 lands acquired or transferred under RCW 79.22.010, 79.22.040, and  
14 79.22.020. In the selection of the county representative, each  
15 participating county shall have one vote. The Washington state  
16 association of counties shall conduct a meeting for the purpose of  
17 making the selection and shall notify the board of the selection. The  
18 county representative shall be a duly elected member of a county  
19 legislative authority who shall serve a term of four years unless the  
20 representative should leave office for any reason. (~~The initial term~~  
21 ~~shall begin on July 1, 1986.~~)

22       NEW SECTION. Sec. 8. A new section is added to chapter 79.64 RCW  
23 to read as follows:

24       (1) If the board authorizes a deduction under section 4 of this act  
25 in excess of twenty-five percent in connection with any one transaction  
26 pertaining to state lands, then the state auditor shall conduct two  
27 audits, one following the second biennium after the triggering action  
28 by the board, and a second following the third biennium after the  
29 triggering action by the board.

30       (2) The audits required under this section must:

31       (a) Account for the origin of each dollar deposited into the  
32 resource management cost account, as well as the specific final use of  
33 each dollar by the department;

34       (b) Specify in real dollars, and as a percentage of total  
35 expenditures, the amount of the resource management cost account that  
36 was used by the department for the following activities on state land:

37       (i) Variable density thinning activities;

1 (ii) Operations designed to address forest health issues;  
2 (iii) Other activities designed to develop complex forest stands,  
3 such as snag creation, lengthening of rotations, and restoration of a  
4 more natural species composition through underplanting;

5 (iv) Timber harvests in riparian zones;

6 (v) Conventional thinning activities;

7 (vi) Regenerative harvests or clear cuts;

8 (c) Specify in total acreage, giving specific locations, the amount  
9 of state lands managed by the department that were given the following  
10 management treatments funded by the resource management cost account:

11 (i) Variable density thinning activities;

12 (ii) Operations designed to address forest health issues;

13 (iii) Other activities designed to develop complex forest stands;

14 (iv) Regenerative harvests or clear cuts; and

15 (v) Timber harvests in riparian zones.

16 (d) Identify the marginal projected increase in net revenue  
17 returned to the trust beneficiaries over time due to the increase in  
18 the deduction authorized by section 4 of this act.

19 (3) It is the responsibility of the commissioner to notify the  
20 state auditor when and if the board increases the deduction for the  
21 resource management cost account over twenty-five percent and to  
22 provide all information required by the state auditor necessary to  
23 complete the audits required by this section.

24 (4) The state auditor may conduct the audit required by this  
25 section using the resources of the office of the state auditor, or the  
26 state auditor may contract out all or a portion of the required audits.

27 NEW SECTION. **Sec. 9.** A new section is added to chapter 79.64 RCW  
28 to read as follows:

29 (1) The joint legislative audit and review committee shall,  
30 consistent with chapter 44.28 RCW, conduct a performance audit focusing  
31 on the success of the department in meeting the ecological and economic  
32 outcomes outlines in the sustainable yield harvest level adopted by the  
33 board pursuant to RCW 79.10.320 in 2004.

34 (2) The performance audit required by this section must, at a  
35 minimum, answer the following questions:

36 (a) How is the department taking steps towards increasing the acres  
37 of old growth or fully functional habitat five-fold from 2004 levels?

1 (b) How is the department improving stream ecology?

2 (c) Is the department taking steps towards increasing significant  
3 deer and elk foraging habitat?

4 (d) Is the department taking steps towards decreasing unhealthy  
5 forests from 2004 levels?

6 (e) What is the actual and projected marginal increase in net  
7 revenue to trust beneficiaries?

8 (f) How many private sector jobs not existing in 2004 can be  
9 directly linked to the trust land management activities of the  
10 department?

11 (g) What is the actual and projected marginal increase in forest  
12 inventory?

13 (h) How many additional acres of forest land are being actively  
14 managed compared to 2004?

15 (i) How much volume did the department sell when the prices were  
16 below the average price for the time period between 2005 and 2013  
17 compared to the volume sold when prices were above the average price?

18 (j) What steps has the department taken towards increasing age  
19 class and stand complexity on trust lands?

20 (3) The final performance audit required by this section shall be  
21 completed by January 1, 2015, and no sooner than January 1, 2014.

22 NEW SECTION. **Sec. 10.** By November 1, 2007, the department of  
23 natural resources shall prepare a report to the appropriate committees  
24 of the legislature that provides the following:

25 (1) A review of opportunities for the department of natural  
26 resources to increase revenue to the trust beneficiaries without  
27 increasing the harvest of trees, including a comparison of the  
28 opportunities and the identification of any barriers in place that  
29 restrict the department's implementation of the opportunity. The  
30 opportunities to be studied should include, but not be limited to:

31 (a) Long-term leases for recreation, ecological conservation,  
32 carbon sequestration, development mitigation, and watershed protection;

33 (b) Creation of a state-operated log yard;

34 (c) Marketing of niche products such as red cedar, red alder, and  
35 nontimber forest products;

36 (d) Pursuing third-party certification for state-produced timber;

37 (e) Producing and selling value-added forest products;

1 (f) Leasing land for wind power and communication sites;

2 (g) Loosening the timber substitution rules to allow additional  
3 bidders on state sales;

4 (h) Increasing the profitability of variable density thinning  
5 projects.

6 (2) A review on the status of the forest development account,  
7 including information on expenditures, revenues, and year-end fund  
8 balances beginning with fiscal year 2001, as well as projected  
9 expenditures, revenues, and fund balances for fiscal years 2008 through  
10 2011. The review must also include recommendations on potential  
11 changes to the deduction for management expenses as allowed in RCW  
12 79.64.110 if the department of natural resources concludes that such  
13 changes may be necessary. The department shall meet with the  
14 beneficiaries prior to submitting the report required by this section.

15 **Sec. 11.** 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 or dispose of  
26 real property, without public auction, in the following circumstances:

27 (a) Transfers in lieu of condemnations;

28 (b) Transfers to a nonprofit land conservation organization when  
29 the purposes and transaction structure are approved by the board;

30 (c) Transfers to public agencies; and

31 ~~((e))~~ (d) Transfers to resolve trespass and property ownership  
32 disputes.

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

1        NEW SECTION.   **Sec. 12.**   Section 5 of this act expires December 31,  
2   2007.

3        NEW SECTION.   **Sec. 13.**   Section 6 of this act takes effect December  
4   31, 2007.

5        NEW SECTION.   **Sec. 14.**   Except for section 6 of this act, this act  
6   is necessary for the immediate preservation of the public peace,  
7   health, or safety, or support of the state government and its existing  
8   public institutions, and takes effect immediately.

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