

HOUSE BILL REPORT

HB 2480

As Reported by House Committee On:
Ecology & Parks
General Government Appropriations

Title: An act relating to implementing certain recommendations of the sustainable recreation work group.

Brief Description: Adopting policy recommendations developed by the sustainable recreation work group.

Sponsors: Representatives Blake, Warnick, Takko, Upthegrove, Dunshee, Hinkle, Sells, Kretz and Ormsby; by request of Commissioner of Public Lands.

Brief History:

Committee Activity:

Ecology & Parks: 1/12/10, 1/15/10 [DPS];

General Government Appropriations: 2/5/10 [DP2S(w/o sub EPAR)].

Brief Summary of Second Substitute Bill

- Implements certain recommendations of the Sustainable Recreation Work Group.
- Provides the Department of Natural Resources with specific authority to assess user charges on individuals or groups interested in accessing specific recreation sites or hosting specific events on public land.
- Expands the recreational immunity statute to allow the Department of Natural Resources to charge user fees or require statewide access permits without losing liability protection.

HOUSE COMMITTEE ON ECOLOGY & PARKS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Upthegrove, Chair; Rolfes, Vice Chair; Chase, Dickerson, Eddy, Finn, Hudgins and Morris.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Do not pass. Signed by 5 members: Representatives Short, Ranking Minority Member; Kristiansen, Orcutt, Shea and Taylor.

Staff: Jason Callahan (786-7117).

Background:

Sustainable Recreation Work Group.

The 2008 Legislature assigned to the Department of Natural Resources (DNR) the task of convening and staffing a group of concerned citizens who eventually, through the process established in the enabling legislation, named themselves the Sustainable Recreation Work Group (Work Group). The Work Group was asked to make recommendations to the Legislature on ways to improve recreation on state trust lands, aquatic lands, and other lands managed by the DNR.

The final report of the Work Group was delivered to the Legislature in December 2009. The report contains a number of recommendations as to how recreation on land managed by the DNR could be improved. These recommendations are divided into access-related goals and funding-related goals. In total, between the two categories, the Work Group recommended 13 different measures for legislative consideration.

Recreational Immunity.

Generally, a landowner cannot be found negligent for injuries sustained by members of the public while on his or her property if the member of the public was allowed on the land for the purposes of recreation. This legal condition is known as recreational immunity.

Recreational immunity does not apply in instances when the landowner charges a fee to recreate on his or her land. However, permits or licenses for statewide use issued for a charge by the Washington Department of Fish and Wildlife (WDFW) or the State Parks and Recreation Commission (Parks Commission) are not considered to be fees and therefore do not eliminate the recreational immunity for the associated lands. Likewise, a daily charge of up to \$20 for access to a public off road vehicle park is also not considered to be a fee under the recreational immunity statute.

Summary of Substitute Bill:

Intent.

The stated intent is to adopt certain policy recommendations forwarded by the Work Group. The recommendations that were selected for inclusion were those that are capable of being implemented in the near-term and that provide near-term benefits to sustainable recreation.

Use Charges.

The DNR is provided with specific authority to assess use charges on individuals or groups interested in accessing specific, improved sites dedicated to recreation or hosting specific events on land managed by the DNR. The money collected from use charges must be reinvested by the DNR into the management of recreational opportunities at the site where it was collected.

A detailed rate structure and efficient collection system must be adopted in rule prior to collecting use charges. The DNR is permitted to develop the rate structure and collection mechanism of its choosing; however, the development of the rates and collection mechanisms must be done in a manner that ensures that the final collection generates more revenue than the expense of collecting the revenue.

The DNR must include a public process during any rule development for user charges. The process must solicit information specifically regarding how the DNR could implement waivers from use charges for volunteers and how the new rules could avoid excluding certain segments of the population from recreating lands managed by the DNR.

Use charges developed by the DNR, along with any permits issued by the DNR for statewide access, would not be considered a fee under the recreational immunity statute. As a result, the associated immunity for lands accessed after paying these charges would not be waived and the DNR would maintain immunity.

Concessionaries.

The DNR is directed to conduct a pilot project to evaluate how private concessionaires could reduce costs while being compatible with the existing recreational access values of the DNR. The pilot project must consist of one private concessionaire located in eastern Washington and one located in western Washington. The structure of the pilot projects must be such that necessary oversight is maintained by the DNR.

The results of the pilot project must be delivered to the Legislature in two separate reports. A progress report must be provided in 2011, and a final report is due upon the completion of the project. The length of the concessionaire contracts, and thus the length of the pilot projects, is to be determined by the DNR.

Multi-agency Pass.

The DNR, the Parks Commission, and the WDFW are required to formally explore how a single multi-agency recreational access pass could be developed and implemented. The pass would allow the holder to access any fee-restricted land managed by either one of the three agencies.

The development of the new pass must include considerations of how the new pass can be integrated with other existing fee-based passes, how including access to lands managed by the federal government could be explored, how funds could be collected and reinvested, and how fee waivers could be implemented for active volunteers. The pass development process must also recognize the Parks Commission's prohibition against charging daily access or parking fees.

Proposed legislation implementing the multi-agency pass must be provided by the three agencies to the Legislature by November 2010. The proposed legislative language must be accompanied by documents explaining the approach taken in the submitted language, unanswered questions, barriers to success, and any additional relevant analysis.

Substitute Bill Compared to Original Bill:

The substitute bill: (1) specifies that private concessionaires may operate and maintain, but not construct, recreation facilities; (2) limits the ability for the DNR to assess use charges to sites that are improved and dedicated to recreation; and (3) recognizes that the Parks Commission is prohibited from assessing general access fees and specifies that the development of a multi-agency use pass may not circumvent that policy.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

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

Staff Summary of Public Testimony:

(In support) The Work Group members were highly engaged, showed an impressive level of commitment, and delivered a series of consensus recommendations. The various user groups showed a willingness to work together to keep recreation viable. The resulting bill may not be perfect, but it contains many important recommendations.

There is a huge need to fund outdoor recreation. The population of Washington is increasing and the access to open land is decreasing. Washington needs a plan to provide safe and enjoyable outdoor recreation that is protective of natural resources. As it is, popular recreation sites such as Mt. Si, Little Si, and Mt. Spokane are at risk of closure.

The Work Group surprised some by showing a willingness to support new fees. Demands on the use of state lands have substantially increased over the years while the funding for recreation has decreased. Small monetary amounts can have significant access benefits. Any new fees would only be used at the sites that experience the highest levels of use and the most popular event sites. All of the fundraising ideas in the bill are fairly modest.

It is in the best interest of citizens for the various land-owning agencies to work together and recognize each other's access passes. This would avoid the confusion for the citizen to know which pass is needed and the clutter of having to display multiple passes. The WDFW is looking forward to working with the Parks Commission and the DNR to make a multi-agency pass possible.

(With concerns) Any new fees should be targeted to improved land managed by the DNR and not just to roads and other unimproved areas.

The Parks Commission should not be included in the proposal to develop a unified multi-agency pass. Currently, the Parks Commission does not charge access fees, and there could be a negative effect on donation levels if the Parks Commission is perceived as trying to create a new access fee.

Private concessionaires should not be enabled to construct recreation facilities on state land in case the authority is used to circumvent the integrity of the public bidding process.

(Opposed) None.

Persons Testifying: (In support) Representative Blake, prime sponsor; Craig Partridge, Department of Natural Resources; Paul Dahmer, Washington Department of Fish and Wildlife; Daniel Fallstrom, Washington State Snowmobile Association; Jim King, Citizens for Parks and Recreation; and Jonathan Guzzo, Washington Trails Association.

(With concerns) Brian Hovis, Washington State Parks and Recreation Commission; and Dave Johnson, Washington State Building and Construction Trades Council.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Ecology & Parks. Signed by 11 members: Representatives Darneille, Chair; Takko, Vice Chair; Blake, Dunshee, Hudgins, Kenney, Klippert, Pedersen, Sells, Van De Wege and Williams.

Minority Report: Do not pass. Signed by 2 members: Representatives McCune, Ranking Minority Member; Short.

Staff: Owen Rowe (786-7391).

Summary of Recommendation of Committee On General Government Appropriations Compared to Recommendation of Committee On Ecology & Parks:

The requirements that the Department of Natural Resources (DNR) initiate a concessionaire pilot project is removed from the bill as is the requirement that the DNR, the Department of Fish and Wildlife, and the State Parks and Recreation Commission study the feasibility of a multi-agency pass.

The DNR is provided with specific authority to assess the following use charges and penalties on individuals or groups interested in accessing specific recreation sites or hosting specific events on land managed by the DNR:

- One-day parking and access fee at trailheads, campgrounds, or other parking areas is set at \$5.

- Annual parking and access pass is set at \$20.
- One night campsite fee is set at \$10.
- For specific events located on public lands an operation fee is set at \$200, plus the greater of either 10 percent of entrance fees collected by the host, or 10 percent of a host's total commercial operations.
- A violation of the use charge or operation fee requirements of this section is punishable as a natural resources infraction under chapter 7.84. RCW.

The substitute bill provides opportunities for volunteers to utilize DNR land without paying access or operation fees. The failure to pay access or operation fees is a natural resources infraction.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill is request legislation from the Commissioner of Public Lands, and is the result of a broad based citizen work group that includes representatives from diverse user groups and local governments. We worked for over a year and a half to come up with sustainability recommendations for managing DNR lands. Only the most modest of proposals were included in deference to the state's current economic circumstance.

(Opposed) The amendments to this bill have changed my perspective. The economic future of Sky Valley is based on recreational access. The proposed fees of \$20 per person will be difficult for our people. Recently the DNR closed an off-road vehicle area in our community and this caused an immediate negative impact on our economy. Restaurant business was down by 40 percent the next weekend, and has not recovered. Please consider that any additional fees will be hard for our people during these difficult economic times. This DNR request bill is contrary to the best interest of the state. Every nickel generated by the state begins in our communities. The imposition of access fees will hurt our local economies. Population in the state is increasing, and at the same time recreational opportunities are decreasing. Please send the DNR back to the table to work with local governments, community members, and user groups to come up with a better solution to this bill in its current form.

Persons Testifying: (In support) Craig Partridge, Office of the Commissioner of Public Lands.

(Opposed) Debbie Copple, Sky Valley Chamber of Commerce; Ted Jackson, Gold Bar Nature Trail; Ed Moats, Mike Leibold-Everett Power Sports; and Deborah Knight, City of Sultan.

Persons Signed In To Testify But Not Testifying: None.