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HOUSE BILL 1627

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State of Washington

61st Legislature

2009 Regular Session

By Representatives Kretz, Chandler, and Ross

Read first time 01/26/09. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to the purchase of property for potential water  
2 storage; amending RCW 77.12.220, 77.12.037, 79A.05.170, 79.70.040, and  
3 43.82.010; and reenacting and amending RCW 43.41.270.

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

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

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

16 If the commission agrees to a transfer or conveyance under this  
17 section or to a sale or return of real property under RCW 77.12.210,  
18 the director shall certify, with the attorney general, to the governor  
19 that the agreement has been made. The certification shall describe the

1 real property. The governor then may execute and the secretary of  
2 state attest and deliver to the appropriate entity or person the  
3 instrument necessary to fulfill the agreement.

4 No state moneys may be used to purchase property or easements for  
5 potential water storage sites designated under the Columbia river basin  
6 water supply development program, as identified in chapter 90.90 RCW.

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

9 (1) The commission may acquire by gift, easement, purchase, lease,  
10 or condemnation lands, buildings, water rights, rights-of-way, or other  
11 necessary property, and construct and maintain necessary facilities for  
12 purposes consistent with this title. The commission may authorize the  
13 director to acquire property under this section, but the power of  
14 condemnation may only be exercised by the director when an  
15 appropriation has been made by the legislature for the acquisition of  
16 a specific property, except to clear title and acquire access  
17 rights-of-way.

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

20 (3) No state moneys may be used to purchase property or easements  
21 for potential water storage sites designated under the Columbia river  
22 basin water supply development program, as identified in chapter 90.90  
23 RCW.

24 **Sec. 3.** RCW 43.41.270 and 2007 c 444 s 7 and 2007 c 241 s 5 are  
25 each reenacted and amended to read as follows:

26 (1) The office of financial management shall assist natural  
27 resource-related agencies in developing outcome-focused performance  
28 measures for administering natural resource-related and environmentally  
29 based grant and loan programs. These performance measures are to be  
30 used in determining grant eligibility, for program management and  
31 performance assessment.

32 (2) The office of financial management and the governor's salmon  
33 recovery office, during the time it is constituted, shall assist  
34 natural resource-related agencies in developing recommendations for a  
35 monitoring program to measure outcome-focused performance measures

1 required by this section. The recommendations must be consistent with  
2 the framework and coordinated monitoring strategy developed by the  
3 monitoring oversight committee established in RCW 77.85.210.

4 (3) Natural resource agencies shall consult with grant or loan  
5 recipients including local governments, tribes, nongovernmental  
6 organizations, and other interested parties, and report to the office  
7 of financial management on the implementation of this section.

8 (4) For purposes of this section, "natural resource-related  
9 agencies" include the department of ecology, the department of natural  
10 resources, the department of fish and wildlife, the state conservation  
11 commission, the recreation and conservation funding board, the salmon  
12 recovery funding board, and the public works board within the  
13 department of community, trade, and economic development.

14 (5) For purposes of this section, "natural resource-related  
15 environmentally based grant and loan programs" includes the  
16 conservation reserve enhancement program; dairy nutrient management  
17 grants under chapter 90.64 RCW; state conservation commission water  
18 quality grants under chapter 89.08 RCW; coordinated prevention grants,  
19 public participation grants, and remedial action grants under RCW  
20 70.105D.070; water pollution control facilities financing under chapter  
21 70.146 RCW; aquatic lands enhancement grants under RCW 79.105.150;  
22 habitat grants under the Washington wildlife and recreation program  
23 under RCW 79A.15.040; salmon recovery grants under chapter 77.85 RCW;  
24 and the public works trust fund program under chapter 43.155 RCW. The  
25 term also includes programs administered by the department of fish and  
26 wildlife related to protection or recovery of fish stocks which are  
27 funded with moneys from the capital budget.

28 (6) No state moneys may be used to purchase property or easements  
29 for potential water storage sites designated under the Columbia river  
30 basin water supply development program, as identified in chapter 90.90  
31 RCW.

32 **Sec. 4.** RCW 79A.05.170 and 1991 sp.s. c 13 s 23 are each amended  
33 to read as follows:

34 (1) Any lands owned by the state parks and recreation commission,  
35 which are determined to be surplus to the needs of the state for  
36 development for state park purposes and which the commission proposes  
37 to deed to a local government or other entity, shall be accompanied by

1 a clause requiring that if the land is not used for outdoor recreation  
2 purposes, ownership of the land shall revert to the state parks and  
3 recreation commission.

4 (2) The state parks and recreation commission, in cases where land  
5 subject to such a reversionary clause is proposed for use or disposal  
6 for purposes other than recreation, shall require that, if the land is  
7 surplus to the needs of the commission for park purposes at the time  
8 the commission becomes aware of its proposed use for nonrecreation  
9 purposes, the holder of the land or property shall reimburse the  
10 commission for the release of the reversionary interest in the land.  
11 The reimbursement shall be in the amount of the fair market value of  
12 the reversionary interest as determined by a qualified appraiser  
13 agreeable to the commission. Appraisal costs shall be borne by the  
14 local entity which holds title to the land.

15 (3) Any funds generated under a reimbursement under this section  
16 shall be deposited in the parkland acquisition account which is hereby  
17 created in the state treasury. Moneys in this account are to be used  
18 solely for the purchase or acquisition of property for use as state  
19 park property by the commission, as directed by the legislature; all  
20 such funds shall be subject to legislative appropriation.

21 (4) No state moneys may be used to purchase property or easements  
22 for potential water storage sites designated under the Columbia river  
23 basin water supply development program, as identified in chapter 90.90  
24 RCW.

25 **Sec. 5.** RCW 79.70.040 and 2004 c 199 s 228 are each amended to  
26 read as follows:

27 (1) The department is further authorized to purchase, lease, set  
28 aside, or exchange any public lands which are deemed to be natural  
29 areas: PROVIDED, That the appropriate state land trust receives the  
30 fair market value for any interests that are disposed of: PROVIDED,  
31 FURTHER, That such transactions are approved by the board of natural  
32 resources.

33 (2) An area consisting of public land designated as a natural area  
34 preserve shall be held in trust and shall not be alienated except to  
35 another public use upon a finding by the department of natural  
36 resources of imperative and unavoidable public necessity.

1       (3) No state moneys may be used to purchase property or easements  
2 for potential water storage sites designated under the Columbia river  
3 basin water supply development program, as identified in chapter 90.90  
4 RCW.

5       **Sec. 6.** RCW 43.82.010 and 2007 c 506 s 8 are each amended to read  
6 as follows:

7       (1) The director of general administration, on behalf of the agency  
8 involved and after consultation with the office of financial  
9 management, shall purchase, lease, lease purchase, rent, or otherwise  
10 acquire all real estate, improved or unimproved, as may be required by  
11 elected state officials, institutions, departments, commissions,  
12 boards, and other state agencies, or federal agencies where joint state  
13 and federal activities are undertaken and may grant easements and  
14 transfer, exchange, sell, lease, or sublease all or part of any surplus  
15 real estate for those state agencies which do not otherwise have the  
16 specific authority to dispose of real estate. This section does not  
17 transfer financial liability for the acquired property to the  
18 department of general administration.

19       (2) Except for real estate occupied by federal agencies, the  
20 director shall determine the location, size, and design of any real  
21 estate or improvements thereon acquired or held pursuant to subsection  
22 (1) of this section. Facilities acquired or held pursuant to this  
23 chapter, and any improvements thereon, shall conform to standards  
24 adopted by the director and approved by the office of financial  
25 management governing facility efficiency unless a specific exemption  
26 from such standards is provided by the director of general  
27 administration. The director of general administration shall report to  
28 the office of financial management and the appropriate committees of  
29 the legislature annually on any exemptions granted pursuant to this  
30 subsection.

31       (3) The director of general administration may fix the terms and  
32 conditions of each lease entered into under this chapter, except that  
33 no lease shall extend greater than twenty years in duration. The  
34 director of general administration may enter into a long-term lease  
35 greater than ten years in duration upon a determination by the director  
36 of the office of financial management that the long-term lease provides  
37 a more favorable rate than would otherwise be available, it appears to

1 a substantial certainty that the facility is necessary for use by the  
2 state for the full length of the lease term, and the facility meets the  
3 standards adopted pursuant to subsection (2) of this section. The  
4 director of general administration may enter into a long-term lease  
5 greater than ten years in duration if an analysis shows that the life-  
6 cycle cost of leasing the facility is less than the life-cycle cost of  
7 purchasing or constructing a facility in lieu of leasing the facility.

8 (4) Except as permitted under chapter 39.94 RCW, no lease for or on  
9 behalf of any state agency may be used or referred to as collateral or  
10 security for the payment of securities offered for sale through a  
11 public offering. Except as permitted under chapter 39.94 RCW, no lease  
12 for or on behalf of any state agency may be used or referred to as  
13 collateral or security for the payment of securities offered for sale  
14 through a private placement without the prior written approval of the  
15 state treasurer. However, this limitation shall not prevent a lessor  
16 from assigning or encumbering its interest in a lease as security for  
17 the repayment of a promissory note provided that the transaction would  
18 otherwise be an exempt transaction under RCW 21.20.320. The state  
19 treasurer shall adopt rules that establish the criteria under which any  
20 such approval may be granted. In establishing such criteria the state  
21 treasurer shall give primary consideration to the protection of the  
22 state's credit rating and the integrity of the state's debt management  
23 program. If it appears to the state treasurer that any lease has been  
24 used or referred to in violation of this subsection or rules adopted  
25 under this subsection, then he or she may recommend that the governor  
26 cause such lease to be terminated. The department of general  
27 administration shall promptly notify the state treasurer whenever it  
28 may appear to the department that any lease has been used or referred  
29 to in violation of this subsection or rules adopted under this  
30 subsection.

31 (5) It is the policy of the state to encourage the colocation and  
32 consolidation of state services into single or adjacent facilities,  
33 whenever appropriate, to improve public service delivery, minimize  
34 duplication of facilities, increase efficiency of operations, and  
35 promote sound growth management planning.

36 (6) The director of general administration shall provide  
37 coordinated long-range planning services to identify and evaluate  
38 opportunities for collocating and consolidating state facilities. Upon

1 the renewal of any lease, the inception of a new lease, or the purchase  
2 of a facility, the director of general administration shall determine  
3 whether an opportunity exists for colocating the agency or agencies in  
4 a single facility with other agencies located in the same geographic  
5 area. If a colocation opportunity exists, the director of general  
6 administration shall consult with the affected state agencies and the  
7 office of financial management to evaluate the impact colocation would  
8 have on the cost and delivery of agency programs, including whether  
9 program delivery would be enhanced due to the centralization of  
10 services. The director of general administration, in consultation with  
11 the office of financial management, shall develop procedures for  
12 implementing colocation and consolidation of state facilities.

13 (7) The director of general administration is authorized to  
14 purchase, lease, rent, or otherwise acquire improved or unimproved real  
15 estate as owner or lessee and to lease or sublet all or a part of such  
16 real estate to state or federal agencies. The director of general  
17 administration shall charge each using agency its proportionate rental  
18 which shall include an amount sufficient to pay all costs, including,  
19 but not limited to, those for utilities, janitorial and accounting  
20 services, and sufficient to provide for contingencies; which shall not  
21 exceed five percent of the average annual rental, to meet unforeseen  
22 expenses incident to management of the real estate.

23 (8) If the director of general administration determines that it is  
24 necessary or advisable to undertake any work, construction, alteration,  
25 repair, or improvement on any real estate acquired pursuant to  
26 subsection (1) or (7) of this section, the director shall cause plans  
27 and specifications thereof and an estimate of the cost of such work to  
28 be made and filed in his or her office and the state agency benefiting  
29 thereby is hereby authorized to pay for such work out of any available  
30 funds: PROVIDED, That the cost of executing such work shall not exceed  
31 the sum of twenty-five thousand dollars. Work, construction,  
32 alteration, repair, or improvement in excess of twenty-five thousand  
33 dollars, other than that done by the owner of the property if other  
34 than the state, shall be performed in accordance with the public works  
35 law of this state.

36 (9) In order to obtain maximum utilization of space, the director  
37 of general administration shall make space utilization studies, and  
38 shall establish standards for use of space by state agencies. Such

1 studies shall include the identification of opportunities for  
2 colocation and consolidation of state agency office and support  
3 facilities.

4 (10) The director of general administration may construct new  
5 buildings on, or improve existing facilities, and furnish and equip,  
6 all real estate under his or her management. Prior to the construction  
7 of new buildings or major improvements to existing facilities or  
8 acquisition of facilities using a lease purchase contract, the director  
9 of general administration shall conduct an evaluation of the facility  
10 design and budget using life-cycle cost analysis, value-engineering,  
11 and other techniques to maximize the long-term effectiveness and  
12 efficiency of the facility or improvement.

13 (11) All conveyances and contracts to purchase, lease, rent,  
14 transfer, exchange, or sell real estate and to grant and accept  
15 easements shall be approved as to form by the attorney general, signed  
16 by the director of general administration or the director's designee,  
17 and recorded with the county auditor of the county in which the  
18 property is located.

19 (12) The director of general administration may delegate any or all  
20 of the functions specified in this section to any agency upon such  
21 terms and conditions as the director deems advisable. By January 1st  
22 of each year, beginning January 1, 2008, the department shall submit an  
23 annual report to the office of financial management and the appropriate  
24 committees of the legislature on all delegated leases.

25 (13) This section does not apply to the acquisition of real estate  
26 by:

27 (a) The state college and universities for research or experimental  
28 purposes;

29 (b) The state liquor control board for liquor stores and  
30 warehouses; and

31 (c) The department of natural resources, the department of fish and  
32 wildlife, the department of transportation, and the state parks and  
33 recreation commission for purposes other than the leasing of offices,  
34 warehouses, and real estate for similar purposes.

35 (14) Notwithstanding any provision in this chapter to the contrary,  
36 the department of general administration may negotiate ground leases  
37 for public lands on which property is to be acquired under a financing



1 contract pursuant to chapter 39.94 RCW under terms approved by the  
2 state finance committee.

3 (15) The department of general administration shall report annually  
4 to the office of financial management and the appropriate fiscal  
5 committees of the legislature on facility leases executed for all state  
6 agencies for the preceding year, lease terms, and annual lease costs.  
7 The report must include leases executed under RCW 43.82.045 and  
8 subsection (12) of this section.

9 (16) No state moneys may be used to purchase property or easements  
10 for potential water storage sites designated under the Columbia river  
11 basin water supply development program, as identified in chapter 90.90  
12 RCW.

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