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**SUBSTITUTE SENATE BILL 5957**

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**State of Washington**

**61st Legislature**

**2009 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Jacobsen and Fraser)

READ FIRST TIME 03/02/09.

1       AN ACT Relating to the department of natural resources' authority  
2 to manage urban commercial lands; amending RCW 79.17.010, 79.17.020,  
3 79.17.200, 79.19.010, and 79.19.020; adding a new section to chapter  
4 79.10 RCW; adding a new section to chapter 79.19 RCW; and creating new  
5 sections.

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

7       NEW SECTION. **Sec. 1.** The legislature finds that fundamental state  
8 legal obligations with respect to state lands managed for designated  
9 trust beneficiaries can continue to be met, while adapting to the  
10 changing circumstances of the state and of management of state lands.  
11 Most western states owning and managing federally granted trust lands  
12 are examining the management constraints and opportunities for these  
13 lands and making prudent adjustments that are in the ongoing interests  
14 of the beneficiaries of the lands and of the state.

15       The legislature finds that the state department of natural  
16 resources has traditional and long-term strengths as a manager of  
17 natural resources and lands on behalf of trust beneficiaries and the  
18 people of the state, and that these strengths are well-suited to the

1 general natural resource character of the state lands and state forest  
2 lands. This general natural resource character is expected to  
3 predominate on these lands in the future.

4 The legislature finds that it is in the interest of the trust  
5 beneficiaries of these lands and of the state for the department to  
6 pursue a prudent land asset management strategy of diversification  
7 within and among various types of natural resource land assets.

8 The legislature finds that prior to and following passage of  
9 chapter 222, Laws of 1984, the department pursued a limited series of  
10 acquisitions of urban commercial real estate property, as part of a  
11 broader property diversification strategy directed by that 1984  
12 legislation. Recent studies, including the 2006 report to the  
13 legislature, "A Review of the Department of Natural Resources'  
14 Commercial Lands Program," confirmed the general prudence of a land  
15 asset diversification strategy for state lands, but recommended that to  
16 be truly diversifying in effect, the department's program would need to  
17 be larger and possessing greater capabilities in professional  
18 commercial real estate management. These enhanced capabilities are  
19 inconsistent with the traditional and desirable strengths of the  
20 department in natural resources and land management.

21 The legislature finds that increases in state population and urban  
22 development are putting pressure on working forest and farmlands.  
23 Continuing loss of these working lands threatens the many  
24 environmental, social, and economic benefits these lands provide to the  
25 citizens of the state.

26 The legislature finds that on state lands managed by the department  
27 of natural resources, there is the potential for long-term economic  
28 value from nontraditional products and services derived from the  
29 natural resources associated with these lands. In addition to income  
30 from the sustainable harvest of timber, agricultural products, energy,  
31 and other natural resource commodities, these lands also provide water  
32 storage, improved water quality, carbon sequestration, biodiversity,  
33 habitat, and recreation. These additional values may yield significant  
34 long-term returns to the beneficiaries of state lands in the future.  
35 The legislature further finds that beneficiaries of these trust lands  
36 will have a continuing need for revenue from these lands in the future,  
37 and that diversifying in both traditional and new sources of natural  
38 resource revenue is a prudent trust management strategy.

1       It is the intent of the legislature to confirm the long-term  
2 natural resource and land management authority and direction for the  
3 department of natural resources, to provide new direction to focus  
4 state land management attention on natural resource and land management  
5 opportunities best suited to current and future circumstances, and to  
6 facilitate land transactions that are in the interests of the state and  
7 the beneficiaries of these lands.

8       NEW SECTION.   **Sec. 2.** A new section is added to chapter 79.10 RCW  
9 under the subchapter heading "general provisions" to read as follows:

10       The department may not acquire additional urban commercial  
11 properties as state lands after the effective date of this section.  
12 The department shall develop a long-term strategy to dispose of the  
13 nine existing urban commercial properties and reinvest the proceeds in  
14 working natural resource lands that are at risk of conversion or  
15 working natural resource lands that will protect and enhance the value  
16 of existing trust land holdings and provide a comparable rate of return  
17 as the disposed lands. The department shall provide a progress report  
18 on the status of divestiture of the urban commercial properties to the  
19 appropriate committees of the legislature by December 1, 2012, and  
20 shall submit progress reports every five years thereafter.

21       When acquiring lands at risk of conversion, the department shall  
22 evaluate the investment return for these natural resource lands at risk  
23 of conversion by separately determining the investment value of the  
24 lands for natural resource management and the value of the lands for  
25 development. The department shall provide a report listing the  
26 purchases made, and detailing the difference in investment values for  
27 the purpose of selling, transferring, or leasing the development rights  
28 as permitted in chapter 79.13 RCW. The report must be submitted to the  
29 appropriate committees of the legislature by December 1, 2009, and  
30 every even year thereafter.

31       The department shall also identify in its biennial budget request  
32 any added purchase costs from these lands due to the investment in the  
33 development value of lands at risk of conversion.

34       **Sec. 3.** RCW 79.17.010 and 2008 c 328 s 6012 are each amended to  
35 read as follows:

1 (1) The department, with the approval of the board, may exchange  
2 any state land and any timber thereon for any land of equal value in  
3 order to:

4 (a) Facilitate the marketing of forest products of state lands;

5 (b) Consolidate and block-up state lands;

6 (c) Acquire lands having commercial recreational leasing potential;

7 (d) Acquire county-owned lands; or

8 ~~((Acquire urban property which has greater income potential or  
9 which could be more efficiently managed by the department in exchange  
10 for state urban lands as defined in RCW 79.19.100; or~~

11 ~~(f))~~ Acquire any other lands when such exchange is determined by  
12 the board to be in the best interest of the trust for which the state  
13 land is held.

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

16 (3) The board shall determine that each land exchange is in the  
17 best interest of the trust for which the land is held prior to  
18 authorizing the land exchange.

19 (4) ~~((During the biennium ending June 30, 2009,))~~ For the purposes  
20 of maintaining working farm and forest landscapes or acquiring natural  
21 resource lands at risk of development, the department, with approval of  
22 the board of natural resources, may exchange any state land and any  
23 timber thereon for any land and proceeds of equal value, when it can be  
24 demonstrated that the trust fiduciary obligations can be better  
25 fulfilled after an exchange is completed. Proceeds may be in the form  
26 of cash or services in order to achieve the purposes established in  
27 this section. Any cash received as part of an exchange transaction  
28 shall be deposited in the resource management cost account to pay for  
29 ~~((administrative))~~ expenses incurred in ~~((carrying out))~~ implementing  
30 an exchange transaction. The amount of proceeds received from the  
31 exchange partner may not exceed five percent of the total value of the  
32 exchange. The receipt of proceeds shall not change the character of  
33 the transaction from an exchange to a sale.

34 (5) Prior to executing an exchange under this section, and in  
35 addition to the public notice requirements set forth in RCW 79.17.050,  
36 the department shall consult with legislative members, other state and  
37 federal agencies, local governments, tribes, local stakeholders,  
38 conservation groups, and any other interested parties to identify and

1 address cultural resource issues and the potential of the state lands  
2 proposed for exchange to be used for open space, park, school, or  
3 critical habitat purposes.

4 **Sec. 4.** RCW 79.17.020 and 2008 c 328 s 6013 are each amended to  
5 read as follows:

6 (1) The board of county commissioners of any county and/or the  
7 mayor and city council or city commission of any city or town and/or  
8 the board shall have authority to exchange, each with the other, or  
9 with the federal forest service, the federal government or any proper  
10 agency thereof and/or with any private landowner, county land of any  
11 character, land owned by municipalities of any character, and state  
12 forest land owned by the state under the jurisdiction of the  
13 department, for real property of equal value for the purpose of  
14 consolidating and blocking up the respective land holdings of any  
15 county, municipality, the federal government, or the state of  
16 Washington or for the purpose of obtaining lands having commercial  
17 recreational leasing potential.

18 (2) (~~During the biennium ending June 30, 2009,~~) For the purposes  
19 of maintaining working farm and forest landscapes or acquiring natural  
20 resource lands at risk of development, the department, with approval of  
21 the board of natural resources, may exchange any state land and any  
22 timber thereon for any land and proceeds of equal value, when it can be  
23 demonstrated that the trust fiduciary obligations can be better  
24 fulfilled after an exchange is completed. Proceeds may be in the form  
25 of cash or services in order to achieve the purposes established in  
26 this section. Any cash received as part of an exchange transaction  
27 shall be deposited in the forest development account to pay for  
28 (~~administrative~~) expenses incurred in (~~carrying out~~) implementing  
29 an exchange transaction. The amount of proceeds received from the  
30 exchange partner may not exceed five percent of the total value of the  
31 exchange. The receipt of proceeds shall not change the character of  
32 the transaction from an exchange to a sale.

33 (3) Prior to executing an exchange under this section, and in  
34 addition to the public notice requirements set forth in RCW 79.17.050,  
35 the department shall consult with legislative members, other state and  
36 federal agencies, local governments, tribes, local stakeholders,  
37 conservation groups, and any other interested parties to identify and

1 address cultural resource issues, and the potential of the state lands  
2 proposed for exchange to be used for open space, park, school, or  
3 critical habitat purposes.

4 **Sec. 5.** RCW 79.17.200 and 1992 c 167 s 2 are each amended to read  
5 as follows:

6 (1) For the purposes of this section, "public agency" means any  
7 agency, political subdivision, or unit of local government of this  
8 state including, but not limited to, municipal corporations, quasi-  
9 municipal corporations, special purpose districts, and local service  
10 districts; any agency of the state government; any agency of the United  
11 States; and any Indian tribe recognized as such by the federal  
12 government.

13 (2) With the approval of the board of natural resources, the  
14 department of natural resources may directly transfer, lease, or  
15 dispose of real property, without public auction, in the following  
16 circumstances:

- 17 (a) Transfers in lieu of condemnations;  
18 (b) Transfers or leases to public agencies; (~~and~~)  
19 (c) Transfers to resolve trespass and property ownership disputes;  
20 and  
21 (d) Transfers to convey currently leased homesites to the owner of  
22 the home and improvements.

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

27 **Sec. 6.** RCW 79.19.010 and 2003 c 334 s 525 are each amended to  
28 read as follows:

29 The legislature finds that from time to time it may be desirable  
30 for the department to sell state lands (~~which~~) or development rights  
31 from state natural resource lands at risk of conversion that have low  
32 potential for natural resource management or low income-generating  
33 potential or which, because of geographic location or other factors,  
34 are inefficient for the department to manage. However, it is also  
35 important to acquire lands for long-term management to replace those  
36 sold so that the publicly owned natural resource land base will (~~not~~)

1 be (~~depleted~~) enhanced and the publicly owned forest land base will  
2 not be reduced. The purpose of this chapter is to provide a means to  
3 facilitate such sales and purchases so that the diversity of public  
4 uses on the trust lands will be maintained. In making the  
5 determinations, the department shall comply with local land use plans  
6 and applicable growth management principles.

7 **Sec. 7.** RCW 79.19.020 and 2003 c 334 s 526 are each amended to  
8 read as follows:

9 The department, with the approval of the board, may purchase  
10 property at fair market value to be held in a land bank, which is  
11 hereby created within the department. Property so purchased shall be  
12 property which would be desirable for addition to the public lands of  
13 the state because of the potential for natural (~~resource~~~~or~~)  
14 resource-based income production of the property. The total acreage  
15 held in the land bank shall not exceed one thousand five hundred acres.

16 NEW SECTION. **Sec. 8.** A new section is added to chapter 79.19 RCW  
17 to read as follows:

18 The department shall manage forest lands acquired under this  
19 chapter under the sustainable harvest plan. Lands that were at risk of  
20 conversion, and that were acquired or retained as working forest lands,  
21 and for which development rights were transferred or leased must be  
22 managed at a level equal to or greater than seventy-five percent of the  
23 expected harvest under the sustainable harvest plan. The department  
24 shall identify in its biennial budget request any shortfall in income  
25 from these lands due to harvest levels less than the expected  
26 sustainable harvest level.

27 NEW SECTION. **Sec. 9.** This act does not affect any existing right  
28 acquired or liability or obligation incurred under the sections amended  
29 or under any rule or order adopted under those sections nor does it  
30 affect any proceeding instituted under those sections.

31 NEW SECTION. **Sec. 10.** If any provision of this act or its  
32 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other  
2 persons or circumstances is not affected.

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