

SENATE BILL REPORT

SB 5057

As Reported by Senate Committee On:
Natural Resources & Parks, February 7, 2013

Title: An act relating to outdoor recreation on lands purchased by a private, not-for-profit organization acquired in whole or part with public funds.

Brief Description: Regarding outdoor recreation on lands purchased by a private, not-for-profit organization acquired in whole or part with public funds.

Sponsors: Senators Ericksen, Hargrove, Sheldon, Holmquist Newbry, Becker, King, Honeyford and Shin.

Brief History:

Committee Activity: Natural Resources & Parks: 1/22/13, 2/07/13 [DPS, w/oRec].

SENATE COMMITTEE ON NATURAL RESOURCES & PARKS

Majority Report: That Substitute Senate Bill No. 5057 be substituted therefor, and the substitute bill do pass.

Signed by Senators Pearson, Chair; Smith, Vice Chair; Hewitt and Parlette.

Minority Report: That it be referred without recommendation.

Signed by Senators Kline and Rolfes, Ranking Member.

Staff: Curt Gavigan (786-7437)

Background: State Natural Resource Land Management Agencies. Several natural resource agencies manage significant amounts of state land and are involved in a variety of land transactions, including acquiring lands through state grants from other state agencies.

- *Department of Natural Resources (DNR).* DNR manages several different categories of uplands, each for a specific purpose and under different management requirements. These include approximately 3 million acres of federally granted lands and state forest lands, which DNR manages to support common schools, counties, and other public institutions. The agency also manages over 50 natural area preserves and 31 natural resource conservation areas for primarily conservation-related purposes.
- *Department of Fish and Wildlife (DFW).* DFW manages approximately 900,000 acres of conservation and recreation lands, which are divided into more than 30

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.

wildlife areas. Additionally, the agency manages approximately 700 water access sites, which are usually one-to-five acres in size.

- *Washington State Parks (State Parks)*. The State Parks system includes almost 120 developed parks stretching across approximately 120,000 acres throughout the state.

State Recreation and Conservation Grant Programs. The state administers and funds multiple habitat and recreation grant programs, a number of which include funding for land acquisition. Examples of state-administered grant programs include the following:

- *Trails projects*. State agencies, local governments, and tribes may receive grants through the Washington Wildlife and Recreation Program (WWRP) for the acquisition, renovation, or development of trails.
- *Riparian protection grants*. Certain state agencies, local governments, tribes, and nonprofit organizations may receive grants for the acquisition of riparian habitat through the WWRP. The grants are meant to allow enhancement or restoration of habitats including shorelines, estuaries, lakes, and streams, that can provide functional habitats for salmon and other fish and wildlife species.
- *Salmon recovery grants*. Certain state agencies, local governments, tribes, and nonprofit organizations are eligible for salmon recovery grants administered by the Salmon Recovery Funding Board. This grant program provides funds to protect and restore salmon habitat including projects relating to fish passage, diversions, in-stream habitat improvement, and the acquisition of land.

Summary of Bill (Recommended Substitute): When providing funds for the acquisition of real property, state agencies must generally ensure that the general public has regular access for purposes including outdoor recreation. Public access may be ensured through means such as contracts or deed restrictions. State agencies may approve a request to limit access in two circumstances:

- based on statutory conditions of a funding program; or
- to address specified risks to cultural resources, natural resources, or adjacent landowners.

If a state agency allows limitations on public access, the limitations must be narrowly tailored to address the specific risks identified. This includes limits relating to timing, geographic area, and allowable uses.

The bill provides examples of state agencies to which the bill applies, including the Recreation and Conservation Office and a number of natural resource and environmental agencies. Examples of the acquisition purposes to which the bill provides include salmon recovery funding, estuary restoration, and the WWRP.

EFFECT OF CHANGES MADE BY NATURAL RESOURCES & PARKS COMMITTEE (Recommended Substitute): Replaces the underlying bill that prohibited a private, nonprofit organization from restricting public access to real property acquired with any funds distributed by a state agency with the recommended substitute language summarized above.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed. However, portions of the bill apply retroactively (see bill summary).

Staff Summary of Public Testimony on Original Bill: PRO: The bill is an attempt to capture the concept that lands bought with state tax dollars should be open to the public. The ideas in the bill have merit, and the discussion should continue.

CON: Nonprofit organizations sometimes close off access to avoid liability or because surrounding private landowners want access limited. These land acquisitions generate jobs, leverage grants from elsewhere, and provide environmental benefits.

OTHER: This bill does not have the flexibility to account for certain habitat lands that need limited access to protect the state's investment.

Persons Testifying: PRO: Senator Ericksen, prime sponsor; Tom Davis, WA Farm Bureau.

CON: Bill Robinson, The Nature Conservancy; Bill Clarke, Trust for Public Land; Joe Kane, Nisqually Land Trust.

OTHER: Kaleen Cottingham, Recreation and Conservation Office.