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HOUSE BILL 2268

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State of Washington                      63rd Legislature                      2014 Regular Session

By Representatives Taylor, Shea, Blake, Short, Kretz, Overstreet, and Scott

Read first time 01/15/14. Referred to Committee on Judiciary.

1            AN ACT Relating to the transfer of federal land to the state;  
2 amending RCW 28A.515.300; adding a new chapter to Title 79 RCW;  
3 providing an expiration date; and declaring an emergency.

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

5            NEW SECTION.    **Sec. 1.**    (1) The legislature finds that federal  
6 funding and the resulting capacity for responsible management of  
7 federal public lands are in serious jeopardy while critical threats  
8 such as beetle kills, invasive species, watershed degradation, access  
9 restrictions, and catastrophic wildfires continue to escalate.

10            (2) The legislature further finds that the enabling act creating  
11 the state of Washington includes specific provisions for the disposal  
12 of public lands and guarantees admittance into the union on equal  
13 footing with all other states. Washington, like other western states,  
14 has not received the full benefit of the provisions of the enabling  
15 act, related to the disposal of lands from the federal government.  
16 More specifically, section 13 of the enabling act requires "five per  
17 centum of the proceeds of the sales of public lands lying within said  
18 States ... shall be paid to the said States ... support of common  
19 schools within said States."

1 (3) It is the intent of the legislature to enact legislation  
2 creating a joint task force to analyze the various public lands in  
3 Washington and make recommendations to the legislature regarding the  
4 disposal of these properties, including transfer of title.

5 NEW SECTION. **Sec. 2.** The definitions in this section apply  
6 throughout this chapter unless the context clearly requires otherwise.

7 (1) "Governmental entity" means any federal, state, local, or other  
8 governmental unit, subdivision, agency, department, or instrumentality  
9 thereof.

10 (2) "Net proceeds" means the proceeds from the sale of public  
11 lands, after subtracting expenses incident to the sale of the public  
12 lands.

13 (3) "Public lands" means lands within the exterior boundaries of  
14 Washington, except:

15 (a) Lands to which title is held by a person who is not a  
16 governmental entity;

17 (b) Lands owned or held in trust by the state, a political  
18 subdivision of the state, or an independent entity;

19 (c) Lands reserved for use by the state system of public education  
20 or a state institution of higher education;

21 (d) School and institutional trust lands;

22 (e) The following lands that are managed by the national parks  
23 system as of January 1, 2013:

24 (i) Ebey's Landing national historical reserve;

25 (ii) Fort Vancouver national historic site;

26 (iii) Klondike gold rush national historical park;

27 (iv) Lake Chelan national recreation area;

28 (v) Lake Roosevelt national recreation area;

29 (vi) Lewis and Clark national historical park;

30 (vii) Mount Rainier national park;

31 (viii) North Cascades national park;

32 (ix) Olympic national park;

33 (x) Ross Lake national recreation area;

34 (xi) San Juan Island national historical park;

35 (xii) Whitman mission national historic site; and

36 (xiii) Portions of the Nez Perce national historical park located  
37 in Washington;

1 (f) Lands within the exterior boundaries of Washington as of  
2 January 1, 2013, that are managed by the United States forest service  
3 as a national volcanic monument;

4 (g) Lands within the exterior boundaries of Washington that, as of  
5 January 1, 2013, are designated as part of the national wilderness  
6 preservation system under the wilderness act of 1964 (16 U.S.C. Sec.  
7 1131 et seq.);

8 (h) Real property or tangible personal property owned by the United  
9 States if the property is within the boundaries of a municipality;

10 (i) Any lands managed or owned by any branch of the United States  
11 military or the United States department of energy; or

12 (j) Lands, including water rights, belonging to an Indian or Indian  
13 tribe, band, or community that is held in trust by the United States or  
14 is subject to a restriction against alienation imposed by the United  
15 States.

16 NEW SECTION. **Sec. 3.** (1) On or before December 31, 2014, the  
17 United States shall:

18 (a) Extinguish title to all public lands; and

19 (b) Transfer title to public lands to the state of Washington.

20 (2) If the state subsequently transfers title to any public lands  
21 received under subsection (1) of this section, the state shall:

22 (a) Retain five percent of the net proceeds the state receives from  
23 the transfer of title; and

24 (b) Transfer ninety-five percent of the net proceeds the state  
25 receives from the transfer of title to the United States.

26 (3) In accordance with the Washington state Constitution, the  
27 amount the state retains in accordance with subsection (2)(a) of this  
28 section must be deposited into the permanent common school fund created  
29 in RCW 28A.515.300.

30 NEW SECTION. **Sec. 4.** (1)(a) The joint select committee on the  
31 transfer of public lands is established, with members as provided as  
32 follows:

33 (i) The speaker of the house of representatives shall appoint two  
34 members from each of the two largest caucuses of the house of  
35 representatives; and

1 (ii) The president of the senate shall appoint two members from  
2 each of the two largest caucuses of the senate.

3 (b) The committee shall choose its chair or cochairs from among its  
4 membership.

5 (2) The committee shall, with guidance from other interested  
6 parties and stakeholders, prepare proposed legislation:

7 (a) Creating a public lands commission assigned with:

8 (i) Administering the transfer of title of public lands to the  
9 state under section 3 of this act; and

10 (ii) Addressing the management of public lands and the management  
11 of multiple uses of public lands, including addressing managing open  
12 space, access to public lands, local planning, and the sustainable  
13 yield of natural resources on public lands;

14 (b) Establishing actions that must be taken to secure, preserve,  
15 and protect the state's rights and benefits related to the United  
16 States' duty to have extinguished title to public lands under section  
17 3 of this act, in the event that the United States does not meet the  
18 requirements of section 3 of this act;

19 (c) Making any necessary modifications to the definition of "public  
20 lands" provided in section 2 of this act;

21 (d) Making a determination of, or creating a process for  
22 determining, interests, rights, or uses related to:

23 (i) Easements;

24 (ii) Geothermal resources;

25 (iii) Grazing;

26 (iv) Mining;

27 (v) Natural gas;

28 (vi) Oil and other fossil fuels;

29 (vii) Recreation;

30 (viii) Rights of entry;

31 (ix) Special uses;

32 (x) Timber;

33 (xi) Water; or

34 (xii) Other natural resources or other resources; and

35 (e) Determining what constitutes "expenses incident to the sale of  
36 public lands" as provided in the definition of "net proceeds" under  
37 section 2 of this act.

1 (3) The joint select committee on the transfer of public lands  
2 shall also study and determine whether to prepare proposed legislation  
3 related to:

4 (a) An administrative process for:

5 (i) The United States to extinguish title to public lands;

6 (ii) The state to receive title to public lands from the United  
7 States; or

8 (iii) The state to transfer title to any public lands the state  
9 receives in accordance with section 2 of this act;

10 (b) Establishing a prioritized list of management actions for the  
11 state and the political subdivisions of the state to perform on public  
12 lands:

13 (i) Before and after the United States extinguishes title to public  
14 lands under section 3 of this act; and

15 (ii) To preserve and promote the state's interest in:

16 (A) Protecting public health and safety;

17 (B) Preventing catastrophic wild fire and forest insect  
18 infestation;

19 (C) Preserving watersheds;

20 (D) Preserving and enhancing energy and the production of minerals;

21 (E) Preserving and improving range conditions; and

22 (F) Increasing plant diversity and reducing invasive weeds on range  
23 and woodland portions of the public lands;

24 (c) Establishing procedures and requirements for subjecting public  
25 lands to property taxation;

26 (d) Establishing other requirements related to national forests,  
27 national recreation areas, or other public lands administered by the  
28 United States; and

29 (e) Addressing the indemnification of a political subdivision of  
30 the state for actions taken in furtherance of section 3 of this act.

31 (4) The joint select committee on the transfer of public lands also  
32 may study any other issue related to public lands as determined by the  
33 commissioner and the attorney general.

34 (5) The joint select committee on the transfer of public lands  
35 shall:

36 (a) Make preliminary reports on the study and preparation of  
37 proposed legislation required under this section to the legislature,  
38 consistent with RCW 43.01.036:

1 (i) By June 30, 2013; and

2 (ii) By October 31, 2013; and

3 (b) Deliver a final report containing findings, recommendations,  
4 and proposed legislation to the legislature, consistent with RCW  
5 43.01.036, by January 2, 2014.

6 (6) Staff support for the joint select committee on the transfer of  
7 public lands must be provided by the house of representatives office of  
8 program research and senate committee services.

9 (7) Legislative members of the joint select committee on the  
10 transfer of public lands must be reimbursed for travel expenses in  
11 accordance with RCW 44.04.120.

12 (8) The expenses of the joint select committee on the transfer of  
13 public lands must be paid jointly by the senate and the house of  
14 representatives. Committee expenditures are subject to approval by the  
15 senate facilities and operations committee and the house of  
16 representatives executive rules committee, or their successor  
17 committees.

18 (9) This section expires June 30, 2014.

19 NEW SECTION. **Sec. 5.** If any provision of this act or its  
20 application to any person or circumstance is held invalid, the  
21 remainder of the act or the application of the provision to other  
22 persons or circumstances is not affected.

23 NEW SECTION. **Sec. 6.** This act may be known and cited as the  
24 transfer of public lands act.

25 **Sec. 7.** RCW 28A.515.300 and 2007 c 505 s 2 are each amended to  
26 read as follows:

27 (1) The principal of the common school fund as the same existed on  
28 June 30, 1965, shall remain permanent and irreducible. The said fund  
29 shall consist of the principal amount thereof existing on June 30,  
30 1965, and such additions thereto as may be derived after June 30,  
31 1965, from the following named sources, to wit: Appropriations and donations  
32 by the state to this fund; donations and bequests by individuals to the  
33 state or public for common schools; the proceeds of lands and other  
34 property which revert to the state by escheat (~~and~~), forfeiture, or  
35 transfer from the United States under section 3 of this act; the

1 proceeds of all property granted to the state, when the purpose of the  
2 grant is not specified, or is uncertain; funds accumulated in the  
3 treasury of the state for the disbursement of which provision has not  
4 been made by law; the proceeds of the sale of stone, minerals or  
5 property other than timber and other crops from school and state lands,  
6 other than those granted for specific purposes; all moneys received  
7 from persons appropriating stone, minerals or property other than  
8 timber and other crops from school and state lands other than those  
9 granted for specific purposes, and all moneys other than rental,  
10 recovered from persons trespassing on said lands; five percent of the  
11 proceeds of the sale of public lands lying within the state, which  
12 shall be sold by the United States subsequent to the admission of the  
13 state into the Union as approved by section 13 of the act of congress  
14 enabling the admission of the state into the Union; the principal of  
15 all funds arising from the sale of lands and other property which have  
16 been, and hereafter may be, granted to the state for the support of  
17 common schools and such other funds as may be provided by legislative  
18 enactment.

19 (2) Consistent with Article XVI, section 5 and Article IX, sections  
20 3 and 5 of the state Constitution, the state investment board may  
21 invest the fund as authorized in RCW 28A.515.330.

22 NEW SECTION. **Sec. 8.** Sections 1 through 6 of this act constitute  
23 a new chapter in Title 79 RCW.

24 NEW SECTION. **Sec. 9.** This act is necessary for the immediate  
25 preservation of the public peace, health, or safety, or support of the  
26 state government and its existing public institutions, and takes effect  
27 immediately.

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