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**HOUSE BILL 1452**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Representative Pike

AN ACT Relating to creating cost savings through the formation of a centralized administrative office to manage many of the state's significant real estate assets; amending RCW 77.12.037, 77.12.220, 77.12.210, 77.12.203, 79.71.040, 79.70.030, 79.155.040, 47.01.260, and 43.17.400; reenacting and amending RCW 79A.05.030; adding a new chapter to Title 79 RCW; creating new sections; and providing expiration dates.

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

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

(1) "Agency" or "agencies" means the state parks and recreation commission and the departments of natural resources, transportation, and fish and wildlife.

(2) "Asset management office" means the state real estate asset management office created in section 2 of this act.

(3) "Commissioner" means the commissioner of public lands.

(4) "Consolidated state land" means land owned by the state in the name of the state or in the name of one of the agencies subject to section 4 of this act that does not satisfy the definition of "state lands" or "state forest lands" as provided in RCW 79.02.010.

(5) "Department" means the department of natural resources.

(6) "Director" means the director of the state real estate asset management office created in section 2 of this act.

(7) "Interagency agreement" means a written agreement among two or more agencies involving the management of consolidated state lands owned or managed by a signatory agency.

NEW SECTION. **Sec.**  (1) There is created within the department the state real estate asset management office to assume the powers and fulfill the duties as provided in this chapter.

(2) The primary role of the asset management office is to manage the real estate portfolios of consolidated state lands consistent with this chapter.

(3) The commissioner must appoint a director of the asset management office. The director is an employee of the department and reports directly to the commissioner.

(4) The department may, when appropriate, enter into an interagency agreement with the asset management office as though the asset management office was not administratively housed in the department.

NEW SECTION. **Sec.**  (1) The asset management office is responsible for managing the real estate portfolio for all consolidated state lands consistent with this chapter. This responsibility includes the management of any purchase, sale, or interagency transfer process as well as determining the appropriate use of the consolidated state land.

(2)(a) For all consolidated state lands, the director determines which agency has the primary management responsibility for a specific parcel or set of parcels of consolidated state land based on the best interest of the state and considering the type of land in question and any legal limitations existing on the use of the land.

(b) The agency with primary management responsibility must manage the consolidated state land as directed by the agency's authorizing statutes. All consolidated state lands retain the statutory status provided to them in the authorizing statutes of the agency with primary management responsibility.

(3) The director must, when determining which agency has the primary management responsibility for a parcel or parcels of consolidated state land, default to the agency responsible for transferring the land or referring the land for purchase under section 4 of this act unless an interagency agreement determines otherwise.

NEW SECTION. **Sec.**  (1) For real estate acquired before the effective date of this section, each agency must, if the title lists the name of the individual agency as the owner of the land, process a change in the title so that it is titled to the state of Washington. After the change in title, or if no change in title is needed, the document must be immediately transferred to the department for management by the asset management office.

(2)(a) All real estate acquisition proceedings initiated after the effective date of this section with the intent of the primary management responsibility to belong to one of the agencies must be completed by the asset management office and have the state of Washington listed as the owner on the title and not the name of the individual agency.

(b) Any agency intending to acquire real estate must identify the intended parcel to the asset management office and transmit the necessary funds to the asset management office. The asset management office is responsible for processing the acquisition.

(c) After acquisition, the title to the newly acquired land must remain with the asset management office and the director must determine, consistent with section 3 of this act, which agency has the initial primary management authority for the land.

(3) If a deed restriction or other legal limitation prohibits an agency from transferring or acquiring ownership of a parcel in the name of the state of Washington, then the agency must enter into an interagency agreement with the asset management office that maintains the title in the name of the agency but surrenders real estate management decisions to the asset management office.

(4) The title to any property acquired by an agency through gift or other mechanism not processed by the asset management office must be transferred to the asset management office by the acquiring agency by no later than December 31st of the year the property was acquired.

NEW SECTION. **Sec.**  (1) If an agency decides it is in the best interest of the state to divest a parcel or parcels of consolidated state land under the primary management responsibility of the agency, then the agency must make a recommendation for divestiture to the asset management office.

(2) Upon a recommendation of divestiture by an agency, the director must decide if divesting the proposed parcel or parcels is in the best interest of the state. If so, the office may sell a parcel or parcels of consolidated state land and either purchase new land to be initially managed by the recommending agency or transfer any proceeds to the agency of last primary management authority.

NEW SECTION. **Sec.**  (1) As provided in section 3 of this act, the director is responsible for determining the appropriate agency to lead the day-to-day management for a parcel or parcels of consolidated state land.

(2) If one agency determines that a parcel or parcels of consolidated state land better serves the state as a whole in a different management capacity, then that agency may petition the director for a change in the primary management responsibility to the petitioning agency.

(3) The decision to change the primary management responsibility of a parcel or parcels of consolidated state land belongs solely to the director. In making that decision, the director must consider the proposed new use of the consolidated state land, the existing use of the consolidated state land, and any management restrictions on the use of the consolidated state land in question.

(4) The director must provide a process to petition for a change in primary management responsibility and to settle any disputes among the various agencies as to the best use for the overall state as a whole for a parcel or parcels of consolidated state land.

NEW SECTION. **Sec.**  (1) If the director determines under section 6 of this act to change the primary management responsibility for a parcel or parcels of consolidated state land, then the affected agencies must enter into an interagency agreement giving force to the director's decision. The director must approve all interagency agreements entered into under this section.

(2) The agencies that are a party to an interagency agreement entered into under this section may consider terms related to the transfer in primary management responsibility. The terms may include the transfer of management responsibility of other consolidated state lands and limitations and directions on the use of the consolidated state land in question. However, the agencies may not exchange monetary payments as part of the interagency agreement.

(3) The title and real estate management responsibilities of a parcel or parcels of consolidated state land subject to a change in primary management responsibility remains with the asset management office during and after the execution of an interagency agreement under this section.

NEW SECTION. **Sec.**  (1) All initial changes in title or finalizations of interagency agreements required under section 4 of this act must be completed by December 31, 2015.

(2) This section expires June 30, 2016.

NEW SECTION. **Sec.**  (1) It is the intent of the legislature for the implementation of this act to result in long-term cost savings to the state through the reduction or elimination of real estate management staff made redundant through the creation of a centralized state real estate asset management office.

(2) By December 31, 2015, the state parks and recreation commission and the departments of transportation and fish and wildlife must evaluate the level of staffing dedicated to real estate management in light of the transfer of management responsibilities to the state real estate asset management office as provided in this act and implement a process by which the total number of agency employees is reduced to match the reduced real estate management needs that result from the consolidation of state effort.

(3) This section expires June 30, 2016.

NEW SECTION. **Sec.**  Sections 1 through 7 of this act constitute a new chapter in Title 79 RCW.

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

(1) The commission may acquire, consistent with chapter 79.--- RCW (the new chapter created in section 10 of this act), by gift, easement, purchase, lease, or condemnation lands, buildings, water rights, rights‑of‑way, or other necessary property, and construct and maintain necessary facilities for purposes consistent with this title. Consistent with chapter 79.--- RCW (the new chapter created in section 10 of this act), the commission may authorize the director to acquire property under this section, but the power of condemnation may only be exercised by the director when an appropriation has been made by the legislature for the acquisition of a specific property, except to clear title and acquire access rights‑of‑way.

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

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

(1) For purposes of this title and consistent with chapter 79.--- RCW (the new chapter created in section 10 of this act), the commission may make agreements to obtain real or personal property or to transfer or convey property held by the state to the United States or its agencies or instrumentalities, units of local government of this state, public service companies, or other persons, if in the judgment of the commission and the attorney general the transfer and conveyance is consistent with public interest. For purposes of this section, "local government" means any city, town, county, special district, municipal corporation, or quasi-municipal corporation.

(2) If the commission agrees to a transfer or conveyance under this section or to a sale or return of real property under RCW 77.12.210, the director shall certify, with the attorney general, to the governor that the agreement has been made. The certification shall describe the real property. The governor then may execute and the secretary of state attest and deliver to the appropriate entity or person the instrument necessary to fulfill the agreement.

**Sec.**  RCW 77.12.210 and 2009 c 333 s 33 are each amended to read as follows:

(1) The director shall, consistent with and except as otherwise provided in chapter 79.--- RCW (the new chapter created in section 10 of this act), maintain and manage real or personal property owned, leased, or held by the department and shall control the construction of buildings, structures, and improvements in or on the property. The director may adopt rules for the operation and maintenance of the property.

(2) The commission may, consistent with and except as otherwise provided in chapter 79.--- RCW (the new chapter created in section 10 of this act), authorize the director to sell, lease, convey, or grant concessions upon real or personal property under the control of the department. This includes the authority to sell timber, gravel, sand, and other materials or products from real property held by the department, and to sell or lease the department's real or personal property or grant concessions or rights‑of‑way for roads or utilities in the property. Oil and gas resources owned by the state which lie below lands owned, leased, or held by the department shall be offered for lease by the commissioner of public lands pursuant to chapter 79.14 RCW with the proceeds being deposited in the state wildlife account created in RCW 77.12.170: PROVIDED, That the commissioner of public lands shall condition such leases at the request of the department to protect wildlife and its habitat.

(3) If the commission determines that real or personal property held by the department cannot be used advantageously by the department, the director may ((~~dispose~~))initiate disposal of that property consistent with chapter 79.--- RCW (the new chapter created in section 10 of this act), if it is in the public interest.

(4) If the state acquired real property with use limited to specific purposes, the director may negotiate terms for the return of the property to the donor or grantor. Other real property shall be sold ((~~to the highest bidder at public auction. After appraisal, notice of the auction shall be published at least once a week for two successive weeks in a newspaper of general circulation within the county where the property is located at least twenty days prior to sale~~))as provided in chapter 79.--- RCW (the new chapter created in section 10 of this act).

(5) Proceeds from the sales shall be deposited in the state wildlife account created in RCW 77.12.170.

**Sec.**  RCW 77.12.203 and 2014 c 55 s 1 are each amended to read as follows:

(1) Except as provided in subsection (5) of this section and notwithstanding RCW 84.36.010 or other statutes to the contrary, the director must pay by April 30th of each year on game lands, regardless of acreage, in each county, if requested by an election under RCW 77.12.201, an amount in lieu of real property taxes equal to that amount paid on similar parcels of open space land taxable under chapter 84.34 RCW or the greater of seventy cents per acre per year or the amount paid in 1984 plus an additional amount for control of noxious weeds equal to that which would be paid if such lands were privately owned. This amount may not be assessed or paid on department buildings, structures, facilities, game farms, fish hatcheries, water access sites, tidelands, or public fishing areas.

(2) "Game lands," as used in this section and RCW 77.12.201, means those tracts, regardless of acreage, owned in fee by the ((~~department~~))state and ((~~used for~~))directed by the state real estate asset management office created in section 2 of this act to be under the primary management responsibility of the department for use as wildlife habitat and public recreational purposes. All lands purchased for wildlife habitat, public access, or recreation purposes with federal funds in the Snake River drainage basin are considered game lands regardless of acreage.

(3) This section does not apply to lands transferred after April 23, 1990, to the department from other state agencies.

(4) The county must distribute the amount received under this section in lieu of real property taxes to all property taxing districts except the state in appropriate tax code areas the same way it would distribute local property taxes from private property. The county must distribute the amount received under this section for weed control to the appropriate weed district.

(5) For the 2011-2013 and 2013-2015 fiscal biennia, the director must pay by April 30th of each year on game lands in each county, if requested by an election under RCW 77.12.201, an amount in lieu of real property taxes and must be distributed as follows:

|  |
| --- |
| **County** |
|  |
| Adams 1,909 |
| Asotin 36,123 |
| Chelan 24,757 |
| Columbia 7,795 |
| Ferry 6,781 |
| Garfield 4,840 |
| Grant 37,443 |
| Kittitas 143,974 |
| Klickitat 21,906 |
| Lincoln 13,535 |
| Okanogan 151,402 |
| Pend Oreille 3,309 |
| Yakima 126,225 |

These amounts may not be assessed or paid on department buildings, structures, facilities, game farms, fish hatcheries, water access sites, tidelands, or public fishing areas.

**Sec.**  RCW 79A.05.030 and 2005 c 373 s 1 and 2005 c 360 s 5 are each reenacted and amended to read as follows:

The commission shall:

(1) Have the care, charge, control, and supervision of all parks and parkways acquired or set aside by the state for park or parkway purposes.

(2) Adopt policies, and adopt, issue, and enforce rules pertaining to the use, care, and administration of state parks and parkways. The commission shall cause a copy of the rules to be kept posted in a conspicuous place in every state park to which they are applicable, but failure to post or keep any rule posted shall be no defense to any prosecution for the violation thereof.

(3) Permit the use of state parks and parkways by the public under such rules as shall be adopted.

(4) Clear, drain, grade, seed, and otherwise improve or beautify parks and parkways, and erect structures, buildings, fireplaces, and comfort stations and build and maintain paths, trails, and roadways through or on parks and parkways.

(5) Grant concessions or leases in state parks and parkways, upon such rentals, fees, or percentage of income or profits and for such terms, in no event longer than fifty years, and upon such conditions as shall be approved by the commission: PROVIDED, That leases exceeding a twenty-year term shall require a unanimous vote of the commission: PROVIDED FURTHER, That if, during the term of any concession or lease, it is the opinion of the commission that it would be in the best interest of the state, the commission may, with the consent of the concessionaire or lessee, alter and amend the terms and conditions of such concession or lease: PROVIDED FURTHER, That television station leases shall be subject to the provisions of RCW 79A.05.085, only: PROVIDED FURTHER, That the rates of such concessions or leases shall be renegotiated at five-year intervals. No concession shall be granted which will prevent the public from having free access to the scenic attractions of any park or parkway.

(6) Employ such assistance as it deems necessary. Commission expenses relating to its use of volunteer assistance shall be limited to premiums or assessments for the insurance of volunteers by the department of labor and industries, compensation of staff who assist volunteers, materials and equipment used in authorized volunteer projects, training, reimbursement of volunteer travel as provided in RCW 43.03.050 and 43.03.060, and other reasonable expenses relating to volunteer recognition. The commission, at its discretion, may waive commission fees otherwise applicable to volunteers. The commission shall not use volunteers to replace or supplant classified positions. The use of volunteers may not lead to the elimination of any employees or permanent positions in the bargaining unit.

(7) By majority vote of its authorized membership, and consistent with and except as otherwise provided in chapter 79.--- RCW (the new chapter created in section 10 of this act), select and purchase or obtain options upon, lease, or otherwise acquire for and in the name of the state such tracts of land, including shore and tide lands, for park and parkway purposes as it deems proper. If the commission cannot acquire any tract at a price it deems reasonable, it may, by majority vote of its authorized membership, obtain title thereto, or any part thereof, by condemnation proceedings conducted by the attorney general as provided for the condemnation of rights-of-way for state highways. Option agreements executed under authority of this subsection shall be valid only if:

(a) The cost of the option agreement does not exceed one dollar; and

(b) Moneys used for the purchase of the option agreement are from (i) funds appropriated therefor, or (ii) funds appropriated for undesignated land acquisitions, or (iii) funds deemed by the commission to be in excess of the amount necessary for the purposes for which they were appropriated; and

(c) The maximum amount payable for the property upon exercise of the option does not exceed the appraised value of the property.

(8) Cooperate with the United States, or any county or city of this state, in any matter pertaining to the acquisition, development, redevelopment, renovation, care, control, or supervision of any park or parkway, and enter into contracts in writing to that end. All parks or parkways, to which the state contributed or in whose care, control, or supervision the state participated pursuant to the provisions of this section, shall be governed by the provisions hereof.

(9) Within allowable resources, maintain policies that increase the number of people who have access to free or low-cost recreational opportunities for physical activity, including noncompetitive physical activity.

(10) Adopt rules establishing the requirements for a criminal history record information search for the following: Job applicants, volunteers, and independent contractors who have unsupervised access to children or vulnerable adults, or who will be responsible for collecting or disbursing cash or processing credit/debit card transactions. These background checks will be done through the Washington state patrol criminal identification section and may include a national check from the federal bureau of investigation, which shall be through the submission of fingerprints. A permanent employee of the commission, employed as of July 24, 2005, is exempt from the provisions of this subsection.

**Sec.**  RCW 79.71.040 and 1987 c 472 s 4 are each amended to read as follows:

The department is authorized to, consistent with and except as otherwise provided in chapter 79.--- RCW (the new chapter created in section 10 of this act), acquire property or less than fee interests in property, as defined by RCW 64.04.130, by all means, except eminent domain, for creating natural resources conservation areas, where acquisition is the best way to achieve the purposes of this chapter. Areas acquired or assembled by the department for conservation purposes will be designated as "Washington natural resources conservation areas."

**Sec.**  RCW 79.70.030 and 2003 c 334 s 549 are each amended to read as follows:

In order to set aside, preserve, and protect natural areas within the state, the department is authorized, in addition to any other powers, to:

(1) Establish the criteria for selection, acquisition, management, protection, and use of such natural areas, including:

(a) Limiting public access to natural area preserves consistent with the purposes of this chapter. Where appropriate, and on a case-by-case basis, a buffer zone with an increased low level of public access may be created around the environmentally sensitive areas;

(b) Developing a management plan for each designated natural area preserve. The plan must identify the significant resources to be conserved consistent with the purposes of this chapter and identify the areas with potential for low-impact public and environmental educational uses. The plan must specify the types of management activities and public uses that are permitted, consistent with the purposes of this chapter. The department must make the plans available for review and comment by the public, and state, tribal, and local agencies, prior to final approval;

(2) Cooperate or contract with any federal, state, or local governmental agency, private organizations, or individuals in carrying out the purpose of this chapter;

(3) Consistent with the plan and consistent with and except as otherwise provided in chapter 79.--- RCW (the new chapter created in section 10 of this act), acquire by gift, devise, purchase, grant, dedication, or means other than eminent domain, the fee or any lesser right or interest in real property which shall be held and managed as a natural area;

(4) Acquire by gift, devise, grant, or donation any personal property to be used in the acquisition and/or management of natural areas;

(5) Inventory existing public, state, and private lands in cooperation with the council to assess possible natural areas to be preserved within the state;

(6) Maintain a natural heritage program to provide assistance in the selection and nomination of areas containing natural heritage resources for registration or dedication. The program shall maintain a classification of natural heritage resources, an inventory of their locations, and a data bank for such information. The department shall cooperate with the department of fish and wildlife in the selection and nomination of areas from the data bank that relate to critical wildlife habitats. Information from the data bank shall be made available to public and private agencies and individuals for environmental assessment and proprietary land management purposes. Usage of the classification, inventory, or data bank of natural heritage resources for any purpose inconsistent with the natural heritage program is not authorized;

(7) Prepare a natural heritage plan which shall govern the natural heritage program in the conduct of activities to create and manage a system of natural areas that includes natural resources conservation areas, and may include areas designated under the research natural area program on federal lands in the state;

(a) The plan shall list the natural heritage resources to be considered for registration and shall provide criteria for the selection and approval of natural areas under this chapter;

(b) The department shall provide opportunities for input, comment, and review to the public, other public agencies, and private groups with special interests in natural heritage resources during preparation of the plan;

(c) Upon approval by the council and adoption by the department, the plan shall be updated and submitted biennially to the appropriate committees of the legislature for their information and review. The plan shall take effect ninety days after the adjournment of the legislative session in which it is submitted unless the reviewing committees suggest changes or reject the plan; and

(8) Maintain a state register of natural areas containing significant natural heritage resources to be called the Washington register of natural area preserves. Selection of natural areas for registration shall be in accordance with criteria listed in the natural heritage plan and accomplished through voluntary agreement between the owner of the natural area and the department. No privately owned lands may be proposed to the council for registration without prior notice to the owner or registered without voluntary consent of the owner. No state or local governmental agency may require such consent as a condition of any permit or approval of or settlement of any civil or criminal proceeding or to penalize any landowner in any way for failure to give, or for withdrawal of, such consent.

(a) The department shall adopt rules as authorized by RCW 43.12.065 and 79.70.030(1) and chapter 34.05 RCW relating to voluntary natural area registration.

(b) After approval by the council, the department may place sites onto the register or remove sites from the register.

(c) The responsibility for management of registered natural area preserves shall be with the preserve owner. A voluntary management agreement may be developed between the department and the owners of the sites on the register.

(d) Any public agency may register lands under provisions of this chapter.

**Sec.**  RCW 79.155.040 and 2011 c 216 s 4 are each amended to read as follows:

(1)(a) Except as limited by RCW 79.155.070, the department is authorized to acquire, consistent with and except as otherwise provided in chapter 79.--- RCW (the new chapter created in section 10 of this act), by purchase, gift, donation, grant, transfer, or other means other than eminent domain fee interest or a partial interest, including conservation easements, in lands or other real property suitable for management as part of the community forest trust and that are appropriate to further the goals of the community forest trust.

(b) The fair market value of any real property, and the associated valuable materials, of any land transferred into the community forest trust from state lands must be provided to the beneficiaries of the ((~~transferee [transferor]~~))transferor trust or used for the furtherance of the ((~~transferee [transferor]~~))transferor trust.

(2) The department is authorized to receive funds for purposes of establishing the community forest trust from grants, gifts, bequests, or loans, whether public or private, as well as from legislative appropriation.

(3) All acquisitions of real property for the community forest trust must be approved by the board.

**Sec.**  RCW 47.01.260 and 2006 c 368 s 2 are each amended to read as follows:

(1) The department of transportation shall exercise all the powers and perform all the duties necessary, convenient, or incidental to the planning, locating, designing, constructing, improving, repairing, operating, and maintaining state highways, including bridges and other structures, culverts, and drainage facilities and channel changes necessary for the protection of state highways, and shall examine and allow or disallow bills, subject to the provisions of RCW 85.07.170, for any work or services performed or materials, equipment, or supplies furnished.

(2) Subject to the limitations of RCW 4.24.115, the department, in the exercise of any of its powers, may include in any authorized contract a provision for indemnifying the other contracting party against specific loss or damages arising out of the performance of the contract.

(3) The department is authorized to, consistent with and except as otherwise provided in chapter 79.--- RCW (the new chapter created in section 10 of this act), acquire property as provided by law and to construct and maintain thereon any buildings or structures necessary or convenient for the planning, design, construction, operation, maintenance, and administration of the state highway system and to acquire property and to construct and maintain any buildings, structures, appurtenances, and facilities necessary or convenient to the health and safety and for the accommodation of persons traveling upon state highways.

(4) The department is authorized to engage in planning surveys and may collect, compile, and analyze statistics and other data relative to existing and future highways and highway needs throughout the state, and shall conduct research, investigations, and testing as it deems necessary to improve the methods of construction and maintenance of highways and bridges.

**Sec.**  RCW 43.17.400 and 2007 c 62 s 2 are each amended to read as follows:

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Disposition" means sales, exchanges, or other actions resulting in a transfer of land ownership.

(b) "State agencies" includes:

(i) The department of natural resources established in chapter 43.30 RCW;

(ii) The department of fish and wildlife established in chapter 43.300 RCW;

(iii) The department of transportation established in chapter 47.01 RCW;

(iv) The parks and recreation commission established in chapter 79A.05 RCW; and

(v) The department of ((~~general administration~~))enterprise services established in this chapter.

(2) State agencies proposing disposition of state-owned land, whether directly or to the state real estate asset management office as provided in section 5 of this act, must provide written notice of the proposed disposition to the legislative authorities of the counties, cities, and towns in which the land is located at least sixty days before entering into the disposition agreement.

(3) The requirements of this section are in addition and supplemental to other requirements of the laws of this state.

**--- END ---**