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**SECOND SUBSTITUTE HOUSE BILL 2667**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** House Capital Budget (originally sponsored by Representatives Farrell, Holy, Pollet, Shea, Nealey, Walsh, Scott, Kagi, Senn, Johnson, and Short)

AN ACT Relating to concerning administrative processes of the state parks and recreation commission that require a majority vote of the commission; amending RCW 79A.05.025, 79A.05.175, 79A.05.178, and 79A.05.085; and reenacting and amending RCW 79A.05.030.

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

**Sec.**  RCW 79A.05.025 and 1999 c 249 s 202 are each amended to read as follows:

(1) The commission shall elect one of its members as chair. The commission may be convened at such times as the chair deems necessary((~~, and a majority~~)).

(2)(a) Four members shall constitute a quorum for the transaction of business.

(b) Except as provided in (c) of this subsection, the sale or exchange of park land, or the lease of park land or property for a period exceeding twenty years, requires the unanimous consent of the commission.

(c) The sale, exchange, or lease of park land or property before July 1, 2018, related to park land and property with associated deferred maintenance costs estimated to exceed ten million dollars and located in a county with a population of at least one million people requires the affirmative vote of at least four members of the commission.

(d) The affirmative vote of at least four members of the commission is required to pass any other proposition before the commission unless the commission, by rule, requires the affirmative vote of greater than four members.

**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, except for a lease associated with land or property described in RCW 79A.05.025(2)(c) which may not exceed eighty years, and upon such conditions as shall be approved by the commission((~~: PROVIDED, That~~)).

(a) Leases exceeding a twenty-year term, or the amendment or modification of these leases, 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~~)) vote consistent with RCW 79A.05.025(2) following an opportunity for public review and comment on potential environmental impacts of any lease subject to review under chapter 43.21C RCW.

(b) Television station leases shall be subject to the provisions of RCW 79A.05.085((~~, only: PROVIDED FURTHER, That~~)).

(c) 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~~)) reviewed at least every five years and, at the discretion of the commission, modified to reflect changes in market conditions.

(d) Prior to granting any concession, the commission shall consider the likely substantial effects of concession operations on management of the entire park, wildlife and natural habitat, and on the community in which the park is located, as well as on potential displacement of existing park users. For a concession that the commission judges to have likely substantial effects under this subsection (5)(d), the commission must provide an opportunity for public review and comment prior to granting the concession.

(e) Every concession granted must include provisions to ensure:

(i) The public retains free access to the scenic attractions of any park or parkway; and

(ii) The concessionaire operates consistently with rules and commission policies on real estate management, natural resources management, cultural resources management, and environmental protection.

(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~~)) With authorization from the commission under RCW 79A.05.025(2), 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~~)) with authorization under RCW 79A.05.025(2), 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 79A.05.175 and 2007 c 145 s 1 are each amended to read as follows:

(1) Whenever the commission finds that any land under its control cannot advantageously be used for park purposes, it is authorized to dispose of such land by the method provided in this section or by the method provided in RCW 79A.05.170. ((~~If such lands are school or other grant lands, control thereof shall be relinquished by resolution of the commission to the proper state officials. If such lands were acquired under restrictive conveyances by which the state may hold them only so long as they are used for park purposes, they may be returned to the donor or grantors by the commission. All other such lands may be either sold by the commission to the highest bidder or exchanged for other lands of equal value by the commission, and all conveyance documents shall be executed by the governor. All such exchanges shall be accompanied by a transfer fee, to be set by the commission and paid by the other party to the transfer; such fee shall be paid into the parkland acquisition account established under RCW 79A.05.170.~~))

(2) Disposal of school or other grant lands must be by relinquishment to the proper state officials.

(3) Disposal of lands must be to the original donor or grantor if the lands were acquired under restrictive conveyances that authorize the state to hold the lands only as long as the lands are used for park purposes.

(4) For lands that are not disposed of under RCW 79A.05.170 or subsection (2) or (3) of this section, the commission may exchange lands for at least equal value or may sell lands to the highest bidder under subsection (5) of this section. All conveyance documents for land sales and exchanges under this section must be executed by the governor. All land to be exchanged must be evaluated by the commission to determine the land's suitability for park use. For each exchange of land, the commission shall set a transfer fee that must be paid by the other party to the transfer. Transfer fees must be deposited into the parkland acquisition account established under RCW 79A.05.170. Prior to exchanging land, the commission shall first obtain an appraisal that demonstrates to the satisfaction of the commission that the land to be received by the state is at least equal to the value of the land that the state plans to dispose of. For the purposes of this appraisal, "value" may include land management and ecosystem value, including but not limited to the value of wildlife habitat, water quality, and aesthetics.

(5) For all lands to be disposed of through a sale, the commission may accept sealed bids, electronic bids, or oral bids at auction. Bids on all sales shall be solicited at least twenty days in advance of the sale date by an advertisement appearing at least once a week for two consecutive weeks in a newspaper of general circulation in the county in which the land to be sold is located. If the commission feels that no bid received adequately reflects the fair value of the land to be sold, it may reject all bids, and may call for new bids. All proceeds derived from the sale of such park property shall be paid into the parkland acquisition account established under RCW 79A.05.170. ((~~All land considered for exchange shall be evaluated by the commission to determine its adaptability to park usage. The equal value of all lands exchanged shall first be determined by the appraisals to the satisfaction of the commission.~~))

(6) Except for sales and exchanges associated with state parks property listed on the national register of historic places as provided in RCW 79A.05.025(2)(c), no sale or exchange of state park lands shall be made without the unanimous consent of the commission.

**Sec.**  RCW 79A.05.178 and 2000 c 42 s 1 are each amended to read as follows:

(1) Notwithstanding any other provision of this chapter, the commission may directly dispose of up to ten contiguous acres of real property, without public auction, to resolve trespass, property ownership disputes, and boundary adjustments with adjacent private property owners. Real property to be disposed of under this section may be disposed of only after appraisal and for at least fair market value, and only if the transaction is in the best interest of the state. The commission shall cooperate with potential purchasers to arrive at a mutually agreeable sales price. If necessary, determination of fair market value may include the use of separate independent appraisals by each party and the review of the appraisals, as agreed upon by the parties. All conveyance documents shall be executed by the governor. All proceeds from the disposal of the property shall be paid into the parkland acquisition account. ((~~No~~)) Disposal of real property ((~~may be made without the unanimous consent of the commission~~)) must be consistent with RCW 79A.05.025(2).

(2) Prior to the disposal of any real property under subsection (1) of this section, the commission shall hold a public hearing on the proposal in the county where the real property, or the greatest portion of the real property, is located. At least ten days, but not more than twenty-five days, prior to the hearing, the commission shall publish a paid public notice of reasonable size in display advertising form, setting forth the date, time, and place of the hearing, at least once in one or more daily newspapers of general circulation in the county and at least once in one or more weekly newspapers circulated in the area where the real property is located. A news release concerning the public hearing must be disseminated among print and electronic media in the area where the real property is located. The public notice and news release shall also identify the real property involved in the proposed disposal and describe the purpose of the proposed disposal. A summary of the testimony presented at the public hearing shall be prepared for the commission's consideration when reviewing the proposed disposal of real property.

(3) If there is a failure to substantially comply with the procedures set out under this section, then the agreement to dispose of the real property is subject to being declared invalid by a court of competent jurisdiction. Such a suit must be brought within one year of the date of the real property disposal agreement.

**Sec.**  RCW 79A.05.085 and 2013 c 23 s 265 are each amended to read as follows:

The commission shall determine the fair market value for television station leases based upon independent appraisals and existing leases for television stations shall be extended at said fair market rental for at least one period of not more than twenty years: PROVIDED, That the rates in said leases shall be ((~~renegotiated at five year intervals~~)) reviewed at least every five years and, at the discretion of the commission, modified to reflect changes in market conditions: PROVIDED FURTHER, That said stations shall permit the attachment of antennae of publicly operated broadcast and microwave stations where electronically practical to combine the towers: PROVIDED FURTHER, That notwithstanding any term to the contrary in any lease, this section shall not preclude the commission from prescribing new and reasonable lease terms relating to the modification, placement, or design of facilities operated by or for a station, and any extension of a lease granted under this section shall be subject to this proviso: PROVIDED FURTHER, That notwithstanding any other provision of law the director in his or her discretion may waive any requirement that any environmental impact statement or environmental assessment be submitted as to any lease negotiated and signed between January 1, 1974, and December 31, 1974.

**--- END ---**