
SECOND SUBSTITUTE HOUSE BILL 2667

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)

READ FIRST TIME 02/09/16.

1 AN ACT Relating to concerning administrative processes of the
2 state parks and recreation commission that require a majority vote of
3 the commission; amending RCW 79A.05.025, 79A.05.175, 79A.05.178, and
4 79A.05.085; and reenacting and amending RCW 79A.05.030.

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

6 **Sec. 1.** RCW 79A.05.025 and 1999 c 249 s 202 are each amended to
7 read as follows:

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

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

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

17 (c) The sale, exchange, or lease of park land or property before
18 July 1, 2018, related to park land and property with associated
19 deferred maintenance costs estimated to exceed ten million dollars
20 and located in a county with a population of at least one million

1 people requires the affirmative vote of at least four members of the
2 commission.

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

7 **Sec. 2.** RCW 79A.05.030 and 2005 c 373 s 1 and 2005 c 360 s 5 are
8 each reenacted and amended to read as follows:

9 The commission shall:

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

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

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

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

25 (5) Grant concessions or leases in state parks and parkways((~~7~~))
26 upon such rentals, fees, or percentage of income or profits and for
27 such terms, in no event longer than fifty years, except for a lease
28 associated with land or property described in RCW 79A.05.025(2)(c)
29 which may not exceed eighty years, and upon such conditions as shall
30 be approved by the commission(~~(: PROVIDED, That))~~).

31 (a) Leases exceeding a twenty-year term, or the amendment or
32 modification of these leases, shall require a ~~((unanimous vote of the~~
33 ~~commission: PROVIDED FURTHER, That if, during the term of any~~
34 ~~concession or lease, it is the opinion of the commission that it~~
35 ~~would be in the best interest of the state, the commission may, with~~
36 ~~the consent of the concessionaire or lessee, alter and amend the~~
37 ~~terms and conditions of such concession or lease: PROVIDED FURTHER,~~
38 ~~That))~~ vote consistent with RCW 79A.05.025(2) following an

1 opportunity for public review and comment on potential environmental
2 impacts of any lease subject to review under chapter 43.21C RCW.

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

5 (c) The rates of ((such)) concessions or leases shall be
6 ((renegotiated at five-year intervals. No concession shall be granted
7 which will prevent the public from having)) reviewed at least every
8 five years and, at the discretion of the commission, modified to
9 reflect changes in market conditions.

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

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

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

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

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

37 (7) ((By majority vote of its authorized membership)) With
38 authorization from the commission under RCW 79A.05.025(2), select and
39 purchase or obtain options upon, lease, or otherwise acquire for and
40 in the name of the state such tracts of land, including shore and

1 tide lands, for park and parkway purposes as it deems proper. If the
2 commission cannot acquire any tract at a price it deems reasonable,
3 it may, (~~by majority vote of its authorized membership~~) with
4 authorization under RCW 79A.05.025(2), obtain title thereto, or any
5 part thereof, by condemnation proceedings conducted by the attorney
6 general as provided for the condemnation of rights-of-way for state
7 highways. Option agreements executed under authority of this
8 subsection shall be valid only if:

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

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

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

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

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

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

1 **Sec. 3.** RCW 79A.05.175 and 2007 c 145 s 1 are each amended to
2 read as follows:

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

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

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

25 (4) For lands that are not disposed of under RCW 79A.05.170 or
26 subsection (2) or (3) of this section, the commission may exchange
27 lands for at least equal value or may sell lands to the highest
28 bidder under subsection (5) of this section. All conveyance documents
29 for land sales and exchanges under this section must be executed by
30 the governor. All land to be exchanged must be evaluated by the
31 commission to determine the land's suitability for park use. For each
32 exchange of land, the commission shall set a transfer fee that must
33 be paid by the other party to the transfer. Transfer fees must be
34 deposited into the parkland acquisition account established under RCW
35 79A.05.170. Prior to exchanging land, the commission shall first
36 obtain an appraisal that demonstrates to the satisfaction of the
37 commission that the land to be received by the state is at least
38 equal to the value of the land that the state plans to dispose of.
39 For the purposes of this appraisal, "value" may include land

1 management and ecosystem value, including but not limited to the
2 value of wildlife habitat, water quality, and aesthetics.

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

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

21 **Sec. 4.** RCW 79A.05.178 and 2000 c 42 s 1 are each amended to
22 read as follows:

23 (1) Notwithstanding any other provision of this chapter, the
24 commission may directly dispose of up to ten contiguous acres of real
25 property, without public auction, to resolve trespass, property
26 ownership disputes, and boundary adjustments with adjacent private
27 property owners. Real property to be disposed of under this section
28 may be disposed of only after appraisal and for at least fair market
29 value, and only if the transaction is in the best interest of the
30 state. The commission shall cooperate with potential purchasers to
31 arrive at a mutually agreeable sales price. If necessary,
32 determination of fair market value may include the use of separate
33 independent appraisals by each party and the review of the
34 appraisals, as agreed upon by the parties. All conveyance documents
35 shall be executed by the governor. All proceeds from the disposal of
36 the property shall be paid into the parkland acquisition account.
37 ~~((No))~~ Disposal of real property ((may be made without the unanimous
38 consent of the commission)) must be consistent with RCW
39 79A.05.025(2).

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

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

24 **Sec. 5.** RCW 79A.05.085 and 2013 c 23 s 265 are each amended to
25 read as follows:

26 The commission shall determine the fair market value for
27 television station leases based upon independent appraisals and
28 existing leases for television stations shall be extended at said
29 fair market rental for at least one period of not more than twenty
30 years: PROVIDED, That the rates in said leases shall be
31 ~~((renegotiated at five year intervals))~~ reviewed at least every five
32 years and, at the discretion of the commission, modified to reflect
33 changes in market conditions: PROVIDED FURTHER, That said stations
34 shall permit the attachment of antennae of publicly operated
35 broadcast and microwave stations where electronically practical to
36 combine the towers: PROVIDED FURTHER, That notwithstanding any term
37 to the contrary in any lease, this section shall not preclude the
38 commission from prescribing new and reasonable lease terms relating
39 to the modification, placement, or design of facilities operated by

1 or for a station, and any extension of a lease granted under this
2 section shall be subject to this proviso: PROVIDED FURTHER, That
3 notwithstanding any other provision of law the director in his or her
4 discretion may waive any requirement that any environmental impact
5 statement or environmental assessment be submitted as to any lease
6 negotiated and signed between January 1, 1974, and December 31, 1974.

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