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SENATE BILL 5872

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State of Washington

64th Legislature

2015 Regular Session

By Senator Dansel

Read first time 02/06/15. Referred to Committee on Natural Resources & Parks.

1 AN ACT Relating to the acquisition of land by state natural  
2 resources agencies; amending RCW 77.12.037, 77.12.220, 79.70.030,  
3 79.71.040, and 79A.05.095; reenacting and amending RCW 79A.05.030;  
4 adding a new section to chapter 77.12 RCW; adding a new section to  
5 chapter 43.30 RCW; and adding a new section to chapter 79A.05 RCW.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 77.12  
8 RCW to read as follows:

9 (1) Prior to acquiring real property in any county after the  
10 effective date of this section, the department must identify for sale  
11 department-owned land in that same county of equal to or greater  
12 acreage than the property to be acquired.

13 (2) The department must dispose of the land identified for sale  
14 under subsection (1) of this section as expediently as is reasonably  
15 practicable after the relevant real property acquisition. The  
16 department must provide monthly updates, consistent with RCW  
17 43.01.036, to the office of financial management and appropriate  
18 committees of the senate and house of representatives on the status  
19 of the sale process.

1       **Sec. 2.** RCW 77.12.037 and 2000 c 107 s 4 are each amended to  
2 read as follows:

3       (1) The commission may acquire by gift, easement, purchase,  
4 lease, or condemnation lands, buildings, water rights, rights-of-way,  
5 or other necessary property, and construct and maintain necessary  
6 facilities for purposes consistent with this title. The commission  
7 may authorize the director to acquire property under this section,  
8 but the power of condemnation may only be exercised by the director  
9 when an appropriation has been made by the legislature for the  
10 acquisition of a specific property, except to clear title and acquire  
11 access rights-of-way. Real property acquisitions by the commission or  
12 department are subject to the applicable requirements of section 1 of  
13 this act.

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

16       **Sec. 3.** RCW 77.12.220 and 2000 c 107 s 219 are each amended to  
17 read as follows:

18       (1) For purposes of this title, the commission may make  
19 agreements to obtain real or personal property or to transfer or  
20 convey property held by the state to the United States or its  
21 agencies or instrumentalities, units of local government of this  
22 state, public service companies, or other persons, if in the judgment  
23 of the commission and the attorney general the transfer and  
24 conveyance is consistent with public interest. For purposes of this  
25 section, "local government" means any city, town, county, special  
26 district, municipal corporation, or quasi-municipal corporation.

27       (2) If the commission agrees to a transfer or conveyance under  
28 this section or to a sale or return of real property under RCW  
29 77.12.210, the director shall certify, with the attorney general, to  
30 the governor that the agreement has been made. The certification  
31 shall describe the real property. The governor then may execute and  
32 the secretary of state attest and deliver to the appropriate entity  
33 or person the instrument necessary to fulfill the agreement.

34       (3) Real property acquisitions by the commission or department  
35 are subject to the applicable requirements of section 1 of this act.

36       NEW SECTION. **Sec. 4.** A new section is added to chapter 43.30  
37 RCW under the subchapter heading "part 5 powers and duties—general"  
38 to read as follows:

1 (1) Prior to acquiring real property in any county after the  
2 effective date of this section for purposes of a natural area  
3 preserve, natural resources conservation area, or other habitat or  
4 riparian protection purposes under chapter 79.70 or 79.71 RCW or RCW  
5 79A.15.120, the department must identify for sale department-owned  
6 land in that same county of equal to or greater acreage than the  
7 property to be acquired.

8 (2) The department must dispose of the land identified for sale  
9 under subsection (1) of this section as expediently as is reasonably  
10 practicable after the relevant real property acquisition. The  
11 department must provide monthly updates, consistent with RCW  
12 43.01.036, to the office of financial management and appropriate  
13 committees of the senate and house of representatives on the status  
14 of the sale process.

15 **Sec. 5.** RCW 79.70.030 and 2003 c 334 s 549 are each amended to  
16 read as follows:

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

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

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

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

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

38 (3) Consistent with the plan and the applicable requirements of  
39 section 4 of this act, acquire by gift, devise, purchase, grant,

1 dedication, or means other than eminent domain, the fee or any lesser  
2 right or interest in real property which shall be held and managed as  
3 a natural area;

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

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

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

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

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

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

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

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

14 (a) The department shall adopt rules as authorized by RCW  
15 43.12.065 and 79.70.030(1) and chapter 34.05 RCW relating to  
16 voluntary natural area registration.

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

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

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

25 **Sec. 6.** RCW 79.71.040 and 1987 c 472 s 4 are each amended to  
26 read as follows:

27 The department is authorized to acquire property or less than fee  
28 interests in property, as defined by RCW 64.04.130, by all means,  
29 except eminent domain, for creating natural resources conservation  
30 areas, where the acquisition meets the applicable requirements of  
31 section 4 of this act and is the best way to achieve the purposes of  
32 this chapter. Areas acquired or assembled by the department for  
33 conservation purposes will be designated as "Washington natural  
34 resources conservation areas."

35 NEW SECTION. **Sec. 7.** A new section is added to chapter 79A.05  
36 RCW to read as follows:

37 (1) Prior to acquiring real property in any county after the  
38 effective date of this section, the commission must identify for sale

1 agency-owned land in that same county of equal to or greater acreage  
2 than the property to be acquired.

3 (2) The commission must dispose of the land identified for sale  
4 under subsection (1) of this section as expediently as is reasonably  
5 practicable after the relevant real property acquisition. The  
6 commission must provide monthly updates, consistent with RCW  
7 43.01.036, to the office of financial management and appropriate  
8 committees of the senate and house of representatives on the status  
9 of the sale process.

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

12 The commission shall:

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

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

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

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

28 (5) Grant concessions or leases in state parks and parkways, upon  
29 such rentals, fees, or percentage of income or profits and for such  
30 terms, in no event longer than fifty years, and upon such conditions  
31 as shall be approved by the commission: PROVIDED, That leases  
32 exceeding a twenty-year term 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 television station leases shall be subject to the provisions of  
39 RCW 79A.05.085, only: PROVIDED FURTHER, That the rates of such

1 concessions or leases shall be renegotiated at five-year intervals.  
2 No concession shall be granted which will prevent the public from  
3 having free access to the scenic attractions of any park or parkway.

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

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

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

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

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

36 (8) Cooperate with the United States, or any county or city of  
37 this state, in any matter pertaining to the acquisition, development,  
38 redevelopment, renovation, care, control, or supervision of any park  
39 or parkway, and enter into contracts in writing to that end. All  
40 parks or parkways, to which the state contributed or in whose care,

1 control, or supervision the state participated pursuant to the  
2 provisions of this section, shall be governed by the provisions  
3 hereof.

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

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

19 **Sec. 9.** RCW 79A.05.095 and 1999 c 249 s 901 are each amended to  
20 read as follows:

21 The commission may, consistent with the applicable requirements  
22 of section 7 of this act, receive and accept donations of lands for  
23 state park purposes, and shall be responsible for the management and  
24 control of all lands so acquired. It may from time to time recommend  
25 to the legislature the acquisition of lands for park purposes by  
26 purchase or condemnation.

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