

ESB 6140 - H COMM AMD

By Committee on Agriculture & Natural Resources

ADOPTED AS AMENDED 03/08/2018

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 79.125.400 and 2005 c 155 s 506 are each amended to
4 read as follows:

5 (1) (~~Upon platting and appraisal of first-class tidelands or~~
6 ~~shorelands as provided in this chapter~~) Except when the department
7 is re-leasing first-class tidelands or shorelands under subsection
8 (4) of this section, if the department deems it for the best public
9 interest to offer ((the)) first-class tidelands or shorelands for
10 lease, the department shall notify the owner of record of ((~~uplands~~))
11 the lands fronting upon the tidelands or shorelands to be offered for
12 lease ((~~if the upland owner is a resident of the state, or the upland~~
13 ~~owner is a nonresident of the state, shall mail~~)) by mailing to the
14 ((~~upland~~)) land owner's last known post office address, as reflected
15 in the county records, a copy of the notice notifying the owner that
16 the state is offering the tidelands or shorelands for lease, giving a
17 description of those lands ((~~and the department's appraised fair~~
18 ~~market value of the tidelands or shorelands for lease~~)), and
19 notifying the owner that the ((~~upland~~)) owner has a preference right
20 to apply to lease the tidelands or shorelands ((~~at the appraised~~
21 ~~value for the lease for~~)). The owner has a period of sixty days from
22 the date of service of mailing of the notice to exercise the
23 preference by applying to lease the tidelands or shorelands.

24 (2) If at the expiration of sixty days from the service or
25 mailing of the notice, as provided in subsection (1) of this section,
26 there being no conflicting applications filed, and the owner of the
27 ((~~uplands~~)) lands fronting upon the tidelands or shorelands offered
28 for lease, has failed to avail themselves of their preference right
29 to apply to lease ((~~or to pay to the department the appraised value~~
30 ~~for lease of the tidelands or shorelands described in the notice~~)),
31 the tidelands or shorelands may be offered for lease to any person

1 and may be leased in the manner provided for in the case of lease of
2 state-owned aquatic lands.

3 (3) If at the expiration of sixty days two or more claimants
4 asserting a preference right to lease have filed applications to
5 lease any tract, conflicting with each other, the conflict between
6 the claimants shall be equitably resolved by the department as the
7 best interests of the state require (~~in accord with the procedures~~
8 ~~prescribed by chapter 34.05 RCW~~). However, any contract purchaser of
9 lands or rights therein, which (~~upland~~) land qualifies the owner
10 for a preference right under this section, shall have first priority
11 for the preference right.

12 (4) At the expiration of any lease of first-class tidelands or
13 shorelands, the lessee or the lessee's successors or assigns has the
14 preference right to re-lease all or part of the area covered by the
15 original lease or any portion of the lease, if the department deems
16 it to be in the best interests of the state to re-lease the area.
17 Such a re-lease must be upon the terms and conditions as may be
18 prescribed by the department. This preference right to re-lease is
19 superior to any preference right given to the land owner fronting the
20 tidelands and shorelands under subsection (1) of this section.

21 (5) In case the fronting uplands are not improved and occupied
22 for residential purposes and the fronting land owner has not filed an
23 application for the lease of the lands, the department may lease the
24 lands to any person for booming purposes. However, failure to use for
25 booming purposes any lands leased under this section for such
26 purposes for a period of one year shall work a forfeiture of the
27 lease and the land shall revert to the state without any notice to
28 the lessee upon the entry of a declaration of forfeiture in the
29 records of the department.

30 **Sec. 2.** RCW 79.130.020 and 2005 c 155 s 602 are each amended to
31 read as follows:

32 (1) The department shall, prior to the issuance of any lease
33 under the provisions of this chapter, fix the annual (~~rental~~) rent
34 and prescribe the terms and conditions of the lease. However, in
35 fixing the (~~rental~~) rent, the department shall not take into
36 account the value of any improvements placed upon the lands by the
37 lessee.

38 (2) No lease issued under the provisions of this chapter shall be
39 for a term longer than thirty years (~~from the date thereof if in~~

1 ~~front of second class tidelands or shorelands; or a term longer than~~
2 ~~ten years if in front of unplatted first class tidelands or~~
3 ~~shorelands leased under the provisions of RCW 79.125.410, in which~~
4 ~~case the lease shall be subject to the same terms and conditions as~~
5 ~~provided for in the lease of the unplatted first class tidelands or~~
6 ~~shorelands)).~~ Failure to use those beds leased under the provisions
7 of this chapter for booming purposes, for a period of two years shall
8 work a forfeiture of the lease and the land shall revert to the state
9 without notice to the lessee upon the entry of a declaration of
10 forfeiture in the records of the department.

11 **Sec. 3.** RCW 79.125.030 and 2005 c 155 s 502 are each amended to
12 read as follows:

13 The department may survey and plat any (~~second class~~) tidelands
14 and shorelands not previously platted.

15 **Sec. 4.** RCW 79.11.340 and 2003 c 334 s 399 are each amended to
16 read as follows:

17 (1) Except as provided in RCW 79.10.030(2), the department shall
18 manage and control all lands acquired by the state by escheat, deed
19 of sale, gift, devise, or under RCW 79.19.010 through 79.19.110,
20 except such lands that are conveyed or devised to the state for a
21 particular purpose.

22 (2) When the department determines to sell the lands, they
23 (~~shall initially be~~) must be either: (a) Offered for sale
24 (~~either~~) at public auction (~~or direct sale to public agencies~~) as
25 provided in this chapter(~~-~~

26 ~~(3) If the lands are not sold at public auction, the department~~
27 ~~may,);~~ (b) offered for direct sale to public agencies as provided in
28 RCW 79.17.200; or (c) with approval of the board, (~~market the~~
29 ~~lands~~) marketed through persons licensed under chapter 18.85 RCW or
30 through other commercially feasible means at a price not lower than
31 the land's appraised value.

32 (~~(4)~~) (3) Necessary marketing costs may be paid from the sale
33 proceeds. For the purpose of this subsection, necessary marketing
34 costs include reasonable costs associated with advertising the
35 property and paying commissions.

36 (~~(5)~~) (4) Proceeds of the sale shall be deposited into the
37 appropriate fund in the state treasury unless the grantor in any deed

1 or the testator in case of a devise specifies that the proceeds of
2 the sale be devoted to a particular purpose.

3 **Sec. 5.** RCW 79.17.200 and 1992 c 167 s 2 are each amended to
4 read as follows:

5 (1) For the purposes of this section, "public agency" means any
6 agency, political subdivision, or unit of local government of this
7 state including, but not limited to, municipal corporations, quasi-
8 municipal corporations, special purpose districts, and local service
9 districts; any agency of the state government; any agency of the
10 United States; and any Indian tribe recognized as such by the federal
11 government.

12 (2) With the approval of the board of natural resources, the
13 department of natural resources may directly transfer or dispose of
14 real property, without public auction, in the following
15 circumstances:

16 (a) Transfers in lieu of condemnations;

17 (b) Transfers to public agencies; (~~and~~)

18 (c) Transfers to resolve trespass and property ownership
19 disputes; and

20 (d) Transfers of real property to a lessee that has continuously
21 leased the real property directly from the department of natural
22 resources for purposes of a home site since prior to the effective
23 date of this section. This subsection (2)(d) does not apply to
24 aquatic lands as defined by RCW 79.105.060, or to lessees that do not
25 hold a lease for the real property directly with the department of
26 natural resources.

27 (3) Real property to be transferred or disposed of under this
28 section shall be transferred or disposed of only after appraisal and
29 for at least fair market value, and only if such transaction is in
30 the best interest of the state or affected trust.

31 NEW SECTION. **Sec. 6.** A new section is added to chapter 79.10
32 RCW to read as follows:

33 (1) Subject to the availability of amounts appropriated for this
34 specific purpose, the department must evaluate the department's lands
35 portfolio and revenue streams, management practices, and transaction
36 processes, and develop options and recommendations designed to ensure
37 the state's fiduciary duty is being met and ensure the stability of
38 revenue from state lands and state forestland over time. The

1 department must develop methods or tools to estimate the current
2 asset value of state lands and state forestlands, as defined in RCW
3 79.02.010. The methods should be designed to be as accurate and
4 resource efficient as possible and be designed to allow repeated
5 estimates over time. The methods must allow for the segregation of
6 different asset classes, and at a minimum allow for the tracking of
7 values over time for the following: Forestland, irrigated
8 agricultural land, nonirrigated agricultural land, commercial real
9 estate land, ecosystem services, and recreation benefits. The
10 department may recommend other asset classes to track in addition to
11 those listed.

12 (2) The department must use the services of a contractor to
13 perform an independent evaluation of the current asset value of the
14 trust land portfolio and revenue streams in comparison to other lands
15 regulated by the department.

16 (3) The department must provide a final report to the appropriate
17 committees of the senate and house of representatives by June 30,
18 2020, that includes the evaluation, analysis, and tools and methods
19 required by this section. The department must provide progress
20 reports by December 1, 2018, and December 1, 2019.

21 NEW SECTION. **Sec. 7.** (1) Within existing appropriations, the
22 department of natural resources must prepare an evaluation of leases
23 and easements of state-owned aquatic lands for industrial and
24 commercial uses in existence on January 1, 2018, except leases for
25 purposes of marinas and moorage. The evaluation must include:

26 (a) A summary of each lease and easement, including lease term,
27 rental rate, and use conditions;

28 (b) A listing of annual revenues obtained from each lease and
29 easement;

30 (c) A summary of the methods or formula used to value and
31 establish payment for each type of lease and easement;

32 (d) A summary description of inspection and monitoring efforts
33 completed over the previous ten years relating to compliance with the
34 terms of the lease or easement as well as compliance with all
35 applicable water quality and other local, state, or federal
36 environmental, public health, and safety standards;

37 (e) A summary description of the applicable requirements for
38 inspection and monitoring under the terms of the leases and easements

1 as well as other applicable local, state, and federal regulatory
2 requirements;

3 (f) A summary description of the lease and easement compliance
4 activities performed by the department to ensure the protection of
5 the state's aquatic resources, consistent with RCW 79.105.010, is
6 maintained.

7 (2) The department of natural resources must submit the
8 evaluation, including any recommendations for legislative or
9 administrative actions, to the appropriate policy and fiscal
10 committees of the senate and house of representatives by December 1,
11 2018.

12 NEW SECTION. **Sec. 8.** The following acts or parts of acts are
13 each repealed:

14 (1) RCW 79.125.020 (First-class tidelands and shorelands to be
15 platted) and 2005 c 155 s 501 & 1982 1st ex.s. c 21 s 87; and

16 (2) RCW 79.125.410 (First-class unplatted tidelands and
17 shorelands—Lease preference right to upland owners—Lease for booming
18 purposes) and 2005 c 155 s 527 & 1982 1st ex.s. c 21 s 113."

19 Correct the title.

EFFECT: Brings into alignment the maximum length of leases for certain state-owned aquatic lands.

Provides that the Department of Natural Resources (DNR) may, rather than must, plat certain aquatic lands.

Authorizes the DNR to market certain uplands through a real estate broker without first offering them for sale at public auction.

Authorizes the DNR to transfer certain real property directly, without public auction, to lessees who are currently leasing the property for a home site.

Directs the DNR to conduct an evaluation of its lands portfolio, revenue streams, management practices, and transaction processes, in order to ensure that its fiduciary duty is being met. Requires the DNR, as part of its evaluation, to track certain values generated by state trust lands and state forestlands, including, among others, forestland, irrigated and nonirrigated agricultural land, ecosystem services, and recreation benefits.

Requires the DNR to use the services of a contractor to perform an independent asset valuation of the trust land portfolio and revenue streams in comparison to other lands regulated by the DNR.

Directs the DNR to evaluate certain industrial and commercial leases and easements on state-owned aquatic lands relating to certain

matters including lease terms, annual revenues, and inspection and compliance efforts.

--- END ---