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SENATE BILL 6103

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State of Washington

65th Legislature

2018 Regular Session

By Senators Ranker, Palumbo, Carlyle, Wellman, McCoy, Nelson, Billig, Van De Wege, Rolfes, Kuderer, and Hasegawa

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1 AN ACT Relating to conveyances of federal public lands in the  
2 state of Washington; and adding new sections to chapter 79.02 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 79.02  
5 RCW to read as follows:

6 The definitions in this section apply throughout this section and  
7 sections 2 and 3 of this act unless the context clearly requires  
8 otherwise.

9 (1) "Board" means the board of natural resources created in RCW  
10 43.30.205.

11 (2) "Certificate" or "certificate of compliance" means a  
12 certificate issued by the board under section 2 of this act.

13 (3) "Conservation plan" or "habitat conservation plan" means a  
14 habitat conservation plan developed pursuant to section 10 of the  
15 federal endangered species act of 1973, 16 U.S.C. Sec. 1539, and its  
16 implementing regulations, as the federal act and regulations existed  
17 as of January 1, 2018.

18 (4) "Conveyance" includes any method, including sale, donation,  
19 or exchange, by which all or a portion of the right, title, and  
20 interest of the United States in and to federal lands located in  
21 Washington is transferred to another entity.

1 (5) "Federal public land" means any land owned by the United  
2 States, including the surface estate, the subsurface estate, or any  
3 improvements on those estates. The term does not include any lands in  
4 trust or taken into trust for a Native American tribe or an  
5 individual Native American.

6 (6) "Infrastructure" means any development or construction that  
7 is not on or appurtenant to the federal public land at the time of  
8 transfer.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 79.02  
10 RCW to read as follows:

11 (1) Except as provided in RCW 79.02.100 through 79.02.160, it is  
12 the policy of the state of Washington to discourage conveyances that  
13 transfer ownership of federal public lands in Washington from the  
14 federal government.

15 (2) Except as provided in this section and section 3 of this act,  
16 conveyances of federal public lands in Washington are void *ab initio*  
17 unless the board was provided with the right of first refusal to the  
18 conveyance or the right to arrange for the transfer of the property  
19 to another entity.

20 (3) The board may seek declaratory and injunctive relief from a  
21 court of competent jurisdiction to contest conveyances made to any  
22 entity unless the requirements of this section are met.

23 (4) The board shall consider its right of first refusal or  
24 arrange for the transfer of federal lands to another entity at a  
25 public hearing in which the public is afforded an opportunity to  
26 provide comments on the proposal before the board.

27 (5) Prior to the conveyance of federal public lands in  
28 Washington, if the board was provided with the right of first refusal  
29 or the right to arrange for the transfer of the federal public lands  
30 to another entity, the board shall issue a certificate affirming  
31 compliance with this section.

32 (6) The board may waive its right of first refusal or the right  
33 to arrange for the transfer of the federal public lands to another  
34 entity, and issue a certificate affirming compliance with this  
35 section for a conveyance that the board deems to be routine. A  
36 conveyance deemed by the board to be routine includes, but is not  
37 limited to, the exchange of lands of equal value between the federal  
38 government and a private entity. The board may adopt rules to

1 establish a process and criteria for determining the types of  
2 conveyances it considers to be routine.

3 (7) The board, the fish and wildlife commission, the state parks  
4 and recreation commission, the director of the department of  
5 archaeology and historic preservation, and the recreation and  
6 conservation funding board shall undertake all feasible efforts to  
7 protect against any future unauthorized conveyance or any repeal of a  
8 federal public land designation including, but not limited to, any  
9 change in use, classification, or legal status of any lands  
10 designated as federal monuments pursuant to the federal antiquities  
11 act of 1906 (54 U.S.C. Sec. 320301 et seq.).

12 (8) The board shall ensure that the transferee of the federal  
13 public land pursuant to a conveyance is solely responsible for all  
14 costs associated with the management of those lands as well as the  
15 cost in developing any infrastructure for all future uses of the  
16 lands.

17 (9) The board may establish procedures and standards for engaging  
18 with federal land managers and potential purchasers of federal public  
19 lands early in the conveyance process.

20 (10) This section does not apply to any of the following:

21 (a) The conveyance of federal public lands pursuant to a  
22 conservation plan;

23 (b) The renewal of a lease in existence as of January 1, 2018; or

24 (c) The conveyance of federal public lands to a federally  
25 recognized Native American tribe or lands taken into or out of trust  
26 for a Native American tribe or an individual Native American.

27 NEW SECTION. **Sec. 3.** A new section is added to chapter 79.02  
28 RCW to read as follows:

29 (1) A person may not knowingly file or record a deed, instrument,  
30 or other document relating to a conveyance subject to section 2 of  
31 this act unless it is accompanied by a certificate of compliance from  
32 the board.

33 (2) A deed, instrument, or other document related to a conveyance  
34 that is subject to section 2 of this act must be titled "federal  
35 public land deed of conveyance" and may not be recorded without a  
36 certificate from the board.

37 NEW SECTION. **Sec. 4.** If any provision of this act or its  
38 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other  
2 persons or circumstances is not affected.

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