

# SENATE BILL REPORT

## EHB 2896

---

As of February 28, 2020

**Title:** An act relating to the use of surplus property for public benefit.

**Brief Description:** Concerning the use of surplus property for public benefit.

**Sponsors:** Representatives Ryu, Santos and Morgan.

**Brief History:** Passed House: 2/17/20, 60-38.

**Committee Activity:** Housing Stability & Affordability: 2/26/20, 2/28/20 [DP-WM, DNP].  
**Ways & Means:**

### Brief Summary of Bill

- Requires the Department of Commerce (Commerce) to annually publish the inventories of state-owned real properties available for lease or sale that are submitted to Commerce by designated state agencies on its website.
- Modifies the authority of a state agency, municipality, or political subdivision to dispose of surplus public property for affordable housing purposes.
- Requires certain cities to biennially report to the Legislature a list of properties disposed for affordable housing purposes, each entity that received the property, and the number of units developed on each property.

---

### SENATE COMMITTEE ON HOUSING STABILITY & AFFORDABILITY

**Majority Report:** Do pass and be referred to Committee on Ways & Means.

Signed by Senators Kuderer, Chair; Das, Vice Chair; Darneille and Saldaña.

**Minority Report:** Do not pass.

Signed by Senators Zeiger, Ranking Member; Fortunato, Assistant Ranking Member; Warnick.

**Staff:** Brandon Popovac (786-7465)

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

---

## SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Corban Nemeth (786-7736)

**Background:** Inventories of State-Owned Land—Multiple Agencies. The Department of Commerce (Commerce) must work with the Washington State Patrol (WSP), the Parks and Recreation Commission (PNRC), and the departments of Social and Health Services (DSHS), Natural Resources (DNR), Transportation (DOT), Corrections (DOC), and Enterprise Services (DES) to identify, catalog, and recommend best use of under-utilized, state-owned property suitable for the development of affordable housing for very low-income, low-income, or moderate-income households. Each year, these agencies must submit to Commerce an inventory of their real property that is available for lease or sale. Commerce must work with the agencies to include in the inventories a consolidated list of any property transactions executed by the agencies that transfer, lease, or dispose of public property for affordable housing purposes including the property appraisal, the terms and conditions of sale, lease, or transfer, the value of the public benefit, and the impact of transaction to the agency. The inventories with revisions must be provided to Commerce by November 1st of each year.

Commerce must consolidate inventories into two groups:

- properties suitable for consideration in affordable housing development; and
- properties not suitable for consideration in affordable housing development.

In making this determination, Commerce must use industry accepted standards such as: location, approximate lot size, current land use designation, and current zoning classification of the property. Commerce must provide a recommendation, based on this grouping, to the Office of Financial Management and appropriate policy and fiscal committees of the Legislature by December 1st of each year. Upon written request, Commerce must provide a copy of the inventory of state-owned and publicly owned lands and buildings to parties interested in developing the sites for affordable housing.

Inventory of State-Owned Land—Department of Transportation. DOT must identify and catalog real property that is no longer required for department purposes and is suitable for the development of affordable housing for very low-income, low-income, and moderate-income households. The inventory must include the location, approximate size, and current zoning classification of the property. By November 1st of each year, DOT must:

- provide a copy of the inventory to Commerce; and
- purge the inventory of real property of sites that are no longer available for the development of affordable housing.

DOT must include an updated listing of real property that has become available since the last update.

Transfer, Lease, or Disposal of Public Property for Affordable Housing. Any state agency, municipality, or political subdivision, with authority to dispose of surplus public property, may transfer, lease, or otherwise dispose of such property for a public benefit purpose. Surplus public property is defined as excess real property that is not required for the needs of or the discharge of the responsibilities of the state agency, municipality, or political

subdivision. Public benefit is defined as affordable housing for low-income and very low-income households and related facilities that support the goals of affordable housing development in providing economic and social stability for low-income persons.

Any such transfer, lease, or other disposal may be made to a public, private, or nongovernmental body on any mutually agreeable terms and conditions, including a no-cost transfer. Consideration must include appraisal costs, debt service, all closing costs, and any other liabilities to the agency, municipality, or political subdivision. However, the property may not be transferred, leased, or disposed of if such transfer, lease, or disposal would violate any bond covenant or encumber or impair any contract.

A deed, lease, or other instrument transferring or conveying surplus property pursuant for a public benefit purpose must include:

- a covenant or other requirement that the property must be used for the designated public benefit purpose; and
- remedies that apply if the recipient of the property fails to use it for the designated public purpose or ceases to use it for such purpose.

**Summary of Bill:** Inventory of State-Owned Land. The WSP, PNR, DSHS, DNR, DOC, DOT, and DES must provide Commerce with its respective inventory of state-owned real property vacant or available for lease or sale by April 1st of each year, beginning April 1, 2021, rather than by each November 1st. In determining whether the properties on these designated agencies' inventories are suitable for affordable housing, Commerce may consider other appropriate criteria in addition to location, lot size, land use designation, and zoning classification. Commerce must annually publish the inventories of state-owned and publicly owned lands and buildings, including DOT's inventory, on its website. Upon written request, Commerce must provide notice of publication of the inventory to parties interested in developing the sites for affordable housing.

Transfer, Lease, or Disposal of Public Property for Affordable Housing. The requirement that consideration for the transfer of surplus property for a public benefit purpose include appraisal costs, debt service, all closing costs, and any other liabilities to the agency, municipality, or political subdivision is modified as permissive consideration. The entity transferring the surplus property may determine the required minimum time period that the property must be used for the public benefit purpose. The transfer, lease, or other disposal of surplus municipal utility property at less than true and full value or at no cost for public benefit purposes is deemed a lawful tax not subject to limitations regarding municipal utility taxes imposed on electrical energy, natural gas, steam energy, or telephone businesses.

The definition of public benefit is expanded to include uses that support the goals of affordable housing development, subsidize or reduce the cost of affordable housing development, and are required by local development regulations.

A city with a population of greater than 500,000 located in a county with a population of greater than 1.5 million that transfers, leases, or otherwise disposes of surplus property for a public benefit must submit a biennial report to the Legislature, beginning by January 1, 2022, containing:

- a list identifying each property that was transferred, leased, or disposed of for a public benefit purpose and each entity that received the property; and
- the number of units of affordable housing that were developed on each property.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony (Housing Stability & Affordability):** PRO: This bill is a follow up trailer bill to HB 2382 from 2018, and many entities are taking advantage of its policies to create affordable housing units. The bill modifies some of the considerations for the transfer of surplus property as well as the definition of public benefit. Adjusting the inventory reporting dates will help Commerce provide the best analysis on surplus property and data available from the listed designated agencies. It makes more sense for Commerce to post two separate inventories on its website. The biennial report required by the city of Seattle will help ensure accountability.

The cities of Seattle and Spokane have utilized this authority to create their own local ordinances, with several other cities expressing similar interest to do so. Seattle has transferred two properties to non-profit affordable housing developers at no cost. Last year Seattle became the first city to utilize this authority to transfer surplus utility property at no cost for permanently affordable homeownership, resulting in an additional 27 homes for households with incomes at less than 80 percent AMI.

The high cost of land, especially in areas with access to reliable transit, parks, schools, jobs, and community centers can be a significant barrier to creating more affordable housing. Surplus property is a viable resource when it comes to municipalities working quickly to meet the immense need for more affordable housing across the state.

**Persons Testifying (Housing Stability & Affordability):** PRO: Representative Cindy Ryu, Prime Sponsor; Ana Bonilla, Enterprise Community Partners; Dave Pringle, Department of Commerce; Robin Koskey, City of Seattle Office of Housing.

**Persons Signed In To Testify But Not Testifying (Housing Stability & Affordability):** No one.