
Capital Budget Committee

HB 1460

Brief Description: Concerning the department of natural resources land transactions, revenue distributions, and creation and management of a trust land transfer program.

Sponsors: Representatives Hackney, Waters, Simmons, Kloba, Pollet, Davis and Macri; by request of Department of Natural Resources.

Brief Summary of Bill

- Authorizes the Department of Natural Resources (DNR) to create and manage a trust land transfer program to transfer economically underperforming state lands to other purposes, and to acquire replacement property to provide sustainable revenue to trust beneficiaries.
- Modifies the DNR's authority to exchange state forestlands on behalf of counties.
- Eliminates a restriction that the DNR may not hold more than 1,500 acres in a land bank.

Hearing Date: 2/9/23

Staff: John Wilson-Tepeli (786-7115).

Background:

Lands Managed by the Department of Natural Resources.

Upon statehood, the federal government granted certain lands to the state to be held in trust for several specified purposes. Beneficiaries of these trust lands include common schools, public higher education institutions, the capitol buildings and grounds, and charitable, educational, penal and reform institutions. These lands are overseen by the Board of Natural Resources

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

(Board) and administered by the DNR.

As shown in the following table, the DNR manages about three million acres for trust beneficiaries: (a) approximately 618,500 acres of state forestlands, beneficiaries of which include counties and their taxing districts; and (b) about 2.33 million acres of state trust lands. State trust lands generate timber, mineral, and lease revenue, which is appropriated through the capital budget.

Trust Land Endowment (By Trust)

Trust	2022 Acreage	% of Total
Common School	1,781,425	60.4%
State Forestlands (formerly called Forest Board Lands)	618,518	21.0%
Washington State University (Agriculture and Scientific Trusts)	155,400	5.3%
State Capitol Building	109,492	3.7%
University of Washington	89,056	3.0%
Charitable, Educational, Penal and Reformatory Institutions	71,780	2.4%
Normal School (Central WA University, Western WA University, The Evergreen State College, Eastern WA University)	66,799	2.3%
Community Forest Trust	52,217	1.8%
King County Water Pollution Control Division	5,960	0.2%
Community & Technical Colleges (since 1990)	1,168	<0.1%
TOTAL	2,951,815	

Source: Department of Natural Resources, October 2022.

The DNR manages another 2.6 million acres under beds of navigable waters, tidelands, shorelands, and harbor areas that generate revenue for the Aquatic Lands Enhancement Account, the Resource Management Cost Account, and the Aquatic Lands Dredged Material Disposal Site account. The DNR also manages nontrust lands of more than 39,000 acres of Natural Area Preserved lands and more than 125,000 acres of Natural Resources Conservation Area lands.

Trust Land Transfers.

Trust Land Transfers (TLT) are capital budget proviso mechanisms that have been used over time to transfer economically underperforming common school trust lands with high recreational and environmental value to other public agencies. The lands transferred out of trust status are managed for conservation, wildlife habitat, or recreational purposes. Using this mechanism, such trust lands are transferred into protected status, and the school trust is compensated without actually harvesting the timber.

Through the TLT mechanism, the Legislature provides an appropriation in the capital budget,

and the estimated value of the timber on the parcel goes to the Common School Construction Fund (CSCF). The value of the bare land goes to the Real Property Replacement Account (Replacement Account) and is used to purchase replacement lands that will generate revenue for trust beneficiaries. Generally, TLT properties must have high timber-to-land-value ratios, typically 80 percent timber value and 20 percent land value.

The TLT mechanism functions in the following manner: (a) each biennium, the DNR identifies a list of low income-producing properties with high recreation or conservation values for consideration by the Board of Natural Resources and the Legislature as candidates for trust land transfer; (b) if the list is authorized and funded in the capital budget bill, the trust lands are transferred to public agencies at appraised market value; (c) at transfer, the capital budget directs the timber value to be deposited in the CSCF where it becomes available for school construction within the current biennium; and (4) the bare land value is deposited into the Replacement Account for the purchase of replacement lands with higher income producing potential to be managed by the DNR to provide current and future income for the Common School Trust.

According to a 2021 DNR report on the TLT mechanism, since 1989, the Legislature has provided \$882.7 million to facilitate the transfer of 125,968 acres of state common school trust lands to other uses and has purchased 55,546 acres of replacement lands.

State Forestlands.

State forestlands consist of forested land that escheated to the state (transfer lands) as well as land purchased by the state outside the Enabling Act trust process. When harvests occur, these revenues are divided between the state and counties, and are generally distributed to counties in proportion to the property taxes levied by the various taxing districts in the county where the harvest occurred. However, due to the protection of various species under the Endangered Species Act (ESA) of 1973, some state forestlands that once generated timber revenue for counties have become subject to ESA-related restrictions on timber harvest. These lands are sometimes referred to as "encumbered lands," due to harvest restrictions. Over time, the operating and capital budgets have appropriated funding related to reducing the impacts of ESA encumbrances on the affected counties.

Land Management Activities.

The DNR manages a state land bank. The land bank provides a mechanism used for the purchasing, selling, and transferring land that allows the DNR to replace less productive land with more productive land, while maintaining the trust land base. Lands held in the land bank may not exceed a total of 1,500 acres.

In certain circumstances, the DNR may transfer or dispose of lands without public auction. These circumstances include transfers under ten contiguous acres, transfers with values under \$25,000, and transfers in certain counties with a population under 25,000 with timber harvest deferrals. The DNR may only transfer such property for fair market value, and if the transfer is in the best interest of the state or affected trust. Proceeds from certain real property transferred or disposed of must be deposited in the Parkland Trust Revolving Account to buy replacement

lands in the same county.

Recent Related Workgroups.

Trust Land Transfers Workgroup. In 2021-23, the Legislature appropriated funding for stakeholder work by a group of trust land beneficiaries and stakeholders to develop a recommended process for the way TLT proposals are developed and implemented. A report and recommendations to the Legislature were submitted by the DNR in December 2021.

Encumbered Lands Workgroup. The 2022 Supplemental Operating Budget required the DNR to work with the Washington State Association of Counties to determine if any statutory changes are necessary to address issues regarding beneficiary revenue distribution or any other fiscal matters related to state forestlands. A report and recommendations were submitted to the Legislature in December 2022.

Summary of Bill:

Trust Land Transfer Program.

Authorization. The DNR is authorized to create and manage a Trust Land Transfer (TLT) program to transfer underperforming land with high ecological or public benefit to acquire real property to provide long-term, sustainable revenue to trust beneficiaries. The lands selected for transfer may be deemed appropriate for state parks, fish and wildlife habitats, natural area preserves, natural resources conservation areas, community forests, recreation, or other public purposes. The DNR may use legislative appropriations for approved trust land transfers to acquire replacement property. The DNR may use transfer authorities to complete transfers under the program and to pay for the administrative expenses to complete the transfer, including the cost of staff time, appraisals, surveys, environmental reviews, and other similar costs.

Administration. Any citizen, state and federal agencies, counties, cities, towns, tribes, nonprofit organizations, special purpose districts, public development authorities, and other political subdivisions of the state, may nominate a parcel of state land or state forestland for the TLT program. The DNR shall perform an initial review to determine whether the transfer of a nominated parcel is in the best interest of the trust, and whether a public agency is willing to take ownership and manage the parcel. The DNR may require prenomination review of parcels over 9,000 acres or parcels over an estimated appraised market value of \$30 million, including the value of the land, valuable materials, and improvements, if any. If the DNR determines through its initial review that transfer would be in the best interest of the trust, and a public agency is able to take ownership and manage the land, the DNR shall consult with potentially affected tribes to identify and address cultural resource issues.

After DNR's initial review and tribal consultation, the DNR may submit parcels to an advisory committee that must evaluate and prioritize nominated parcels according to criteria approved by the Board, including social, ecological, economic, and other values. The advisory committee may include representatives of trust beneficiaries, public agencies, tribes, overburdened communities, vulnerable populations, and other stakeholders as determined by the DNR.

The DNR, with approval of the Board, determines the final, prioritized list of trust land transfer parcels to submit to the Legislature. If a legislative appropriation includes a trust land transfer parcel, and the Board determines that the transfer is in the best interest of the trust for which the land is held, the DNR shall complete the transfer.

State Forestlands.

State Forestland Exchange. The Board may exchange state forestland for obtaining land with greater natural resource or income-producing potential when it is in the best interest of the state or affected trust. The exchange may not be used to reduce the publicly owned forestland base. The restriction that the Board must use the proceeds from the transfer or disposal of state forestlands to purchase replacement lands within the same county is modified to allow the purchase of forestland for the benefit of the county. The transfer may also include the cost of the DNR's administrative expenses to complete the transfer. The legislative authority of the county from which the real property was transferred or disposed may request in writing that the DNR distribute a percentage of the proceeds associated with valuable materials. Upon such a request, and subject to prior approval by the Board, the DNR is required to distribute the requested percentage of proceeds associated with valuable materials.

Proximate County Agreements. The DNR is authorized to acquire replacement forestland in counties proximate to the county or counties that will benefit from the replacement state forestland purchase if the proximate county in which the replacement lands will be purchased is willing to enter into a proximate county agreement. This agreement must stipulate that lands acquired within the proximate county for the benefit of encumbered lands counties will be offset by encumbered lands within the encumbered lands counties enrolled in the DNR conservation programs as appropriate, and the corresponding payments in lieu of taxes will be paid to the proximate county annually. The proximate county agreement must also stipulate that the county where replacement state forestlands are purchased is prohibited from objecting or otherwise taking steps to prevent harvesting forest products and other revenue-producing activity consistent with and commonplace on timber resource lands. In addition, if a county in which replacement state forestlands are purchased chooses to terminate a proximate county agreement, such a county is liable for the total value of the replacement state forestlands to the county or counties to which the benefits from the replacement state forestlands are directed.

Natural Resources Real Property Replacement Account.

In addition to funds transferred due to the transfer of real property, the Natural Resources Real Property Replacement Account may also consist of the value of land, timber, other valuable materials, and improvements owned by the state.

Department of Natural Resources Land Bank.

The restriction that the DNR may not hold more than 1,500 acres in a land bank is removed. The DNR, with the approval of the Board, may exchange property held in the land bank for any lands of equal value, including state forestlands.

Other Provisions.

If a DNR lessee owns and resides in a house located on land being held in the land bank, the Board may sell the land directly to the lessee for fair market value.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.