

SENATE BILL REPORT

SSB 5785

As Amended by House, February 27, 2024

Title: An act relating to department of fish and wildlife authority with regard to certain nonprofit and volunteer organizations.

Brief Description: Concerning department of fish and wildlife authority with regard to certain nonprofit and volunteer organizations.

Sponsors: Senate Committee on Agriculture, Water, Natural Resources & Parks (originally sponsored by Senators Warnick, Shewmake, Liias, Mullet, Nobles, Saldaña and Van De Wege; by request of Department of Fish and Wildlife).

Brief History:

Committee Activity: Agriculture, Water, Natural Resources & Parks: 1/11/24, 1/18/24 [DPS, w/oRec].

Floor Activity: Passed Senate: 1/31/24, 48-0.
Passed House: 2/27/24, 95-0.

Brief Summary of First Substitute Bill

- Authorizes the Washington Department of Fish and Wildlife to enter into cooperative agreements with any nonprofit or volunteer organization to carry out activities benefitting department managed lands.

SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

Majority Report: That Substitute Senate Bill No. 5785 be substituted therefor, and the substitute bill do pass.

Signed by Senators Van De Wege, Chair; Salomon, Vice Chair; Muzzall, Ranking Member; Liias, Shewmake, Short, Stanford and Warnick.

Minority Report: That it be referred without recommendation.

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.

Signed by Senator Wagoner.

Staff: Jeff Olsen (786-7428)

Background: The Washington Department of Fish and Wildlife (WDFW) serves as manager of the state's fish and wildlife resources. As a part of its mandate to protect and preserve the state's fish and wildlife resources while providing recreational and commercial opportunities, WDFW may acquire and manage state lands. WDFW currently owns or manages more than 1 million acres, including 33 wildlife areas and more than 450 water access areas.

In 2013, the Legislature adopted legislation providing specific authority for the Department of Natural Resources (DNR) to enter into agreements with nonprofit and volunteer groups to assist DNR with implementing its multiple use mandates, compliance with local ordinances, and the fostering of aquatic lands uses. Under the legislation, DNR may utilize the services of these groups to plan, construct, and operate recreational areas, trails, and facilities for educational, scientific, or experimental purposes or for other purposes that provide a benefit to lands managed by DNR.

Under Washington tort law, landowners generally owe persons invited to enter their land a duty to use ordinary care to keep that land in a reasonably safe condition. This includes an affirmative duty to inspect the premises and discover dangerous conditions. The Legislature modified this general rule through what is known as the Recreational Use Immunity statute. The Recreational Use Immunity statute generally provides protection from tort liability for landowners who allow public use of their lands and do not charge a fee.

Summary of First Substitute Bill: The Director of the WDFW may enter into contracts, agreements, and other arrangements as necessary to collaborate with volunteer and nonprofit organizations to maintain, protect, and enhance WDFW lands. The agreements may include master agreements with nonprofits and volunteer organizations allowing for the issuing of work orders. Agreements are limited to a duration of five years and work valued at less than \$250,000 per year. Agreements between WDFW and nonprofit and volunteer organizations are not subject to public works requirements. Nonprofit organization means any organization described in section 501(c)(3) of the Federal Internal Revenue Code or a not-for-profit organization organized and conducted for public benefit and operated primarily for charitable, civic, educational, religious, welfare, or health purposes.

Whenever volunteers or volunteer organizations are authorized to perform activities or carry out projects, they may not be considered employees or agents of WDFW and WDFW is not subject to any liability arising out of volunteer activities or projects. The liability of WDFW to volunteers and members of the volunteer organizations is limited in the same manner as provided for in the Recreational Use Immunity statute.

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 on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Many nonprofit organizations that use WDFW lands, such as the Back Country Horsemen, volunteer to maintain those facilities and lands. Cooperative agreements with land managers make it easier to plan and permit volunteer activities, and these agreements are already in use with other natural resource agencies. The changes in this bill make it easier for the WDFW to work with nonprofit and volunteer organizations and would allow limited funds to maintain department lands and facilities to go further.

Persons Testifying: PRO: Senator Judy Warnick, Prime Sponsor; Tom McBride, WDFW; Nicky Pasi, Mountains to Sound Greenway Trust.

Persons Signed In To Testify But Not Testifying: No one.

EFFECT OF HOUSE AMENDMENT(S):

- Adds that nothing in the administration of the agreements with volunteer and nonprofit organizations shall diminish the responsibility that the WDFW must protect the resources and access guaranteed to federally recognized Indian tribes in certain treaties with the United States, and that nothing in the bill alters, diminishes, or expands the rights of federally recognized Indian tribes with treaty reserved rights.