
SENATE BILL 5372

State of Washington

68th Legislature

2023 Regular Session

By Senators Rolfes, Short, Lovelett, Randall, Saldaña, Shewmake, Torres, and Van De Wege; by request of Department of Natural Resources

Read first time 01/13/23. Referred to Committee on Agriculture, Water, Natural Resources & Parks.

1 AN ACT Relating to authorizing the department of natural
2 resources to create and manage a trust land transfer program;
3 amending RCW 79.17.020, 79.17.210, 79.22.060, 43.30.385, 79.19.020,
4 79.19.030, and 79.11.340; reenacting and amending RCW 79.64.110;
5 adding new sections to chapter 79.17 RCW; and creating a new section.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that some state
8 lands and state forestlands have a low potential for natural resource
9 management or low income-generating potential or are inefficient for
10 the department of natural resources to manage due to geographic
11 location or other factors.

12 (2) The legislature further finds that some of these lands have
13 high ecological values and public benefits and should be maintained
14 in public ownership as a park, open space, nature preserve, or
15 similar designation to benefit the people of Washington.

16 (3) The legislature further finds that the department of natural
17 resources needs an effective program to transfer these lands out of
18 trust status to the natural areas program, other public agencies, or
19 tribes, and simultaneously acquire legislative funding to acquire
20 productive replacement lands to improve the revenue-generating
21 performance of the state lands and state forestlands it manages.

1 (4) The legislature further finds that the trust land transfer
2 program should be established within the department of natural
3 resources with adequate funds to cover the department's expenses for
4 administering the program and completing trust land transfers.

5 (5) The legislature further finds that there exists an interest
6 by the public and trust beneficiaries that the program be well-
7 documented and transparent, that each potential transfer be examined
8 by the department of natural resources to ensure it is in the best
9 interests of the trust beneficiaries, that an external advisory
10 committee place proposed transfers into a prioritized order using
11 standardized criteria, that the board of natural resources approve
12 submission of the list to the legislature, and that parcels be
13 transferred in order of priority.

14 NEW SECTION. **Sec. 2.** (1) The department is authorized to create
15 and manage a trust land transfer program. Real property available for
16 the trust land transfer program is economically under-performing
17 state land and state forestland with high ecological or public
18 benefit and deemed appropriate for state parks, fish and wildlife
19 habitats, natural area preserves, natural resources conservation
20 areas, community forests, recreation, or other public purposes. The
21 department may use the real property transfer authorities under this
22 chapter and chapter 79.22 RCW, as appropriate, to complete transfers
23 under the trust land transfer program.

24 (2) The department shall use legislative appropriations for
25 approved trust land transfers to acquire replacement real property
26 that will provide long-term, sustainable revenue to the trust
27 beneficiaries or is otherwise desirable to be added to the affected
28 trust and to pay for the department's administrative expenses to
29 complete the transfer, including the cost of department staff time,
30 appraisals, surveys, environmental reviews, and other similar costs
31 of the program.

32 NEW SECTION. **Sec. 3.** The department shall administer the trust
33 land transfer program as follows:

34 (1) Any citizen, state and federal agencies, counties, cities,
35 towns, tribes, nonprofit organizations, special purpose districts,
36 public development authorities, and other political subdivisions of
37 the state, may nominate a parcel of state land or state forestland
38 for the trust land transfer program. The nomination must be made to

1 the department on forms provided by the department and accompanied by
2 the fee provided under RCW 79.02.250.

3 (2) The department shall perform an initial review to determine
4 whether the transfer of a nominated parcel is in the best interest of
5 the trust for which the land is held and whether a public agency, as
6 defined in RCW 79.17.200, is willing to take ownership of the parcel
7 and is capable of managing the land for the public benefit. The
8 department may require prenomination review of parcels over 9,000
9 acres or parcels over an estimated appraised market value of
10 \$30,000,000, including the value of the land, valuable materials, and
11 improvements, if any.

12 (3) If the department determines through its initial review that
13 transfer would be in the best interest of the trust for which the
14 land is held and a public agency is willing and able to take
15 ownership and manage the land, the department shall consult with
16 potentially affected tribes to identify and address cultural resource
17 issues.

18 (4) Following the department's initial review and tribal
19 consultation, the department may submit parcels to an advisory
20 committee that shall evaluate and prioritize nominated parcels
21 according to criteria approved by the board, including social,
22 ecological, economic, and other values. The advisory committee may
23 include representatives of trust beneficiaries, public agencies,
24 tribes, overburdened communities, and vulnerable populations as
25 defined in chapter 70A.02 RCW, and other stakeholders as determined
26 by the department.

27 (5) The department, with approval of the board, shall determine
28 the final, prioritized list of trust land transfer parcels to submit
29 to the legislature for funding. If a legislative appropriation
30 includes a trust land transfer parcel, and the board determines that
31 the transfer is in the best interest of the trust for which the land
32 is held, the department shall complete the transfer.

33 **Sec. 4.** RCW 79.17.020 and 2013 2nd sp.s. c 19 s 7035 are each
34 amended to read as follows:

35 (1) The board of county commissioners of any county and/or the
36 mayor and city council or city commission of any city or town and/or
37 the board shall have authority to exchange, each with the other, or
38 with the federal forest service, the federal government or any proper
39 agency thereof and/or with any private landowner, county land of any

1 character, land owned by municipalities of any character, and state
2 forestland owned by the state under the jurisdiction of the
3 department, for real property of equal value for the purpose of
4 consolidating and blocking up the respective landholdings of any
5 county, municipality, the federal government, or the state of
6 Washington or for the purpose of obtaining lands having commercial
7 recreational leasing potential. The board shall also have the
8 authority to exchange state forestland for the purpose of obtaining
9 land with greater natural resource or income-producing potential,
10 when in the best interest of the state or affected trust. State
11 forestland exchanged under this section may not be used to reduce the
12 publicly owned forestland base.

13 ~~(2) ((a) During the biennium ending June 30, 2013, for the~~
14 ~~purposes of maintaining working farm and forest landscapes or~~
15 ~~acquiring natural resource lands at risk of development, the~~
16 ~~department, with approval of the board of natural resources, may~~
17 ~~exchange any state land and any timber thereon for any land and~~
18 ~~proceeds of equal value, when it can be demonstrated that the trust~~
19 ~~fiduciary obligations can be better fulfilled after an exchange is~~
20 ~~completed. Proceeds may be in the form of cash or services in order~~
21 ~~to achieve the purposes established in this section. Any cash~~
22 ~~received as part of an exchange transaction shall be deposited in the~~
23 ~~forest development account to pay for administrative expenses~~
24 ~~incurred in carrying out an exchange transaction. These~~
25 ~~administrative expenses include road maintenance and abandonment~~
26 ~~expenses. The amount of proceeds received from the exchange partner~~
27 ~~may not exceed five percent of the total value of the exchange. The~~
28 ~~receipt of proceeds shall not change the character of the transaction~~
29 ~~from an exchange to a sale.~~

30 ~~(b) During the biennium ending June 30, 2015, for the purposes of~~
31 ~~maintaining working farm and forest landscapes or acquiring natural~~
32 ~~resource lands at risk of development, the department, with approval~~
33 ~~of the board of natural resources, may exchange any state land and~~
34 ~~any timber thereon for any land and proceeds of equal value, when it~~
35 ~~can be demonstrated that the trust fiduciary obligations can be~~
36 ~~better fulfilled after an exchange is completed. Proceeds may be in~~
37 ~~the form of cash or services in order to achieve the purposes~~
38 ~~established in this section. Any cash received as part of an exchange~~
39 ~~transaction shall be deposited in the forest development account to~~
40 ~~pay for administrative expenses incurred in carrying out an exchange~~

1 ~~transaction. These administrative expenses include road maintenance~~
2 ~~and abandonment expenses. The amount of proceeds received from the~~
3 ~~exchange partner may not exceed five percent of the total value of~~
4 ~~the exchange. The receipt of proceeds shall not change the character~~
5 ~~of the transaction from an exchange to a sale.~~

6 ~~(3))~~ Prior to executing an exchange under this section, and in
7 addition to the public notice requirements set forth in RCW
8 79.17.050, the department shall consult with legislative members,
9 other state and federal agencies, local governments, tribes, local
10 stakeholders, conservation groups, and any other interested parties
11 to identify and address cultural resource issues, and the potential
12 of the state lands proposed for exchange to be used for open space,
13 park, school, or critical habitat purposes.

14 **Sec. 5.** RCW 79.17.210 and 2018 c 298 s 7005 are each amended to
15 read as follows:

16 (1) The legislature finds that the department has a need to
17 maintain the real property asset base it manages and needs an
18 accounting mechanism to complete transactions without reducing the
19 real property asset base.

20 (2) The natural resources real property replacement account is
21 created in the state treasury. This account shall consist of funds,
22 including the value of land, timber, other valuable materials, and
23 improvements owned by the state, transferred or paid for the disposal
24 or transfer of real property by the department under RCW 79.17.200
25 and the transfer of state lands or state forestlands into community
26 forest trust lands under RCW 79.155.040. The funds in this account
27 shall be used solely for the acquisition of replacement real property
28 and may be spent only when, and as, authorized by legislative
29 appropriation. (~~During the 2013-2015 fiscal biennium, funds in the~~
30 ~~account may also be appropriated for the land purchase in section~~
31 ~~3245, chapter 19, Laws of 2013 2nd sp. sess. under the provisions of~~
32 ~~section 3245, chapter 19, Laws of 2013 2nd sp. sess. and chapter 11,~~
33 ~~Laws of 2013 2nd sp. sess. During the 2017-2019 fiscal biennium,~~
34 ~~moneys in the account may also be appropriated for developing and~~
35 ~~constructing the pipeline in section 3061, chapter 298, Laws of 2018~~
36 ~~under the provisions of section 7004, chapter 298, Laws of 2018.))~~

37 **Sec. 6.** RCW 79.22.060 and 2012 c 166 s 7 are each amended to
38 read as follows:

1 (1) With the approval of the board, the department may directly
2 transfer or dispose of state forestlands without public auction, if
3 the ~~((lands))~~ transfers are:

4 (a) ~~((Consist of ten contiguous acres or less;~~
5 ~~(b) Have a value of twenty-five thousand dollars or less; or~~
6 ~~(c) Are located in a county with a population of twenty-five~~
7 ~~thousand or less and are encumbered with timber harvest deferrals,~~
8 ~~associated with wildlife species listed under the federal endangered~~
9 ~~species act, greater than thirty years in length.~~

10 ~~(2) Disposal under this section may only occur in the following~~
11 ~~circumstances:~~

12 ~~(a) Transfers in lieu of condemnation;~~
13 ~~(b) Transfers to resolve trespass and property ownership~~
14 ~~disputes; or~~
15 ~~(c) In counties with a population of twenty-five thousand or~~
16 ~~less, transfers to public agencies.~~

17 ~~(3))~~ In lieu of condemnation or to resolve trespass and property
18 ownership disputes and the lands consist of 10 contiguous acres or
19 less or have a value of \$25,000 or less; or

20 (b) To public agencies as defined in RCW 79.17.200.

21 (2) Real property to be transferred or disposed of under this
22 section shall be transferred or disposed of only after appraisal and
23 for at least fair market value, and only if the transaction is in the
24 best interest of the state or affected trust. Valuable materials
25 attached to lands ~~((transferred to public agencies under subsection~~
26 ~~(2)(c) of this section)) to be transferred under subsection (1)(b) of~~
27 this section must be appraised at the fair market value without
28 consideration of management or regulatory encumbrances associated
29 with wildlife species listed under the federal endangered species
30 act, if any.

31 ~~((4))~~ (3)(a) Except as provided in ~~((b) of)~~ this subsection,
32 the proceeds from real property transferred or disposed of under this
33 section shall be deposited into the parkland trust revolving fund and
34 be solely used to buy replacement ~~((land within the same county as~~
35 ~~the property transferred or disposed)) forestland for the benefit of~~
36 the county from which the property was transferred or disposed and
37 the department's administrative expenses to complete the transfer,
38 including the cost of department staff time, appraisals, surveys,
39 environmental reviews, and other similar costs of the transfer. The
40 legislative authority of the county from which the real property was

1 transferred or disposed under subsection (1)(b) of this section may
2 request in writing that the department distribute a percentage of the
3 proceeds associated with valuable materials. Upon such a request, and
4 subject to prior approval by the board, the department shall
5 distribute the requested percentage of proceeds associated with
6 valuable materials as provided in RCW 79.64.110.

7 (b) The proceeds from real property transferred or disposed of
8 under (~~subsections (1)(c) and (2)(c) of~~) this section for the
9 purpose of participating in the state forestland pool created under
10 RCW 79.22.140 must be deposited into the parkland trust revolving
11 fund and used to buy replacement forestland for the benefit of that
12 county as provided in RCW 79.64.110 and located within any county
13 participating in the land pool.

14 (c) Except as otherwise provided in this subsection, in counties
15 with a population of (~~twenty-five thousand~~) 25,000 or less, the
16 portion of the proceeds associated with valuable materials on state
17 forestland transferred under (~~subsections (1)(c) and (2)(c) of~~)
18 this section must be distributed as provided in RCW 79.64.110. If
19 requested in writing by the legislative authority of a county
20 participating in the state forestland pool created under RCW
21 79.22.140, the portion of the proceeds associated with valuable
22 materials on state forestland transferred under (~~subsections (1)(c)~~
23 ~~and (2)(c) of~~) this section must be deposited in the parkland trust
24 revolving fund and used to buy replacement forestland for the benefit
25 of that county as provided in RCW 79.64.110 and located within any
26 county participating in the land pool.

27 **Sec. 7.** RCW 43.30.385 and 2014 c 32 s 2 are each amended to read
28 as follows:

29 (1) The parkland trust revolving fund is to be utilized by the
30 department for the purpose of acquiring real property, including all
31 reasonable costs associated with these acquisitions, as a replacement
32 for the property transferred to the state parks and recreation
33 commission, as directed by the legislature in order to maintain the
34 land base of the affected trusts or under RCW 79.22.060 and to
35 receive voluntary contributions for the purpose of operating and
36 maintaining public use and recreation facilities, including trails,
37 managed by the department.

38 (2)(a) Proceeds from transfers of real property to the state
39 parks and recreation commission or other proceeds identified from

1 transfers of real property as directed by the legislature shall be
2 deposited in the parkland trust revolving fund.

3 (b) (~~Except as otherwise provided in this subsection, the~~)
4 Subject to RCW 79.22.060(3), proceeds from real property transferred
5 or disposed under RCW 79.22.060 must be used solely to purchase
6 replacement forestland, that must be actively managed as a working
7 forest, (~~within the same county as the property~~) for the benefit of
8 the county from which the property was transferred or disposed. (~~If~~
9 ~~the real property was transferred under RCW 79.22.060 (1)(c) and~~
10 ~~(2)(c) from within a county participating in the state forestland~~
11 ~~pool created under RCW 79.22.140, replacement forestland may be~~
12 ~~located within any county participating in the land pool.~~)

13 (c) Disbursement from the parkland trust revolving fund to
14 acquire replacement property and for operating and maintaining public
15 use and recreation facilities shall be on the authorization of the
16 department.

17 (d) The proceeds from the recreation access pass account created
18 in RCW 79A.80.090 must be solely used for the purpose of operating
19 and maintaining public use and recreation facilities, including
20 trails, managed by the department.

21 (3) In order to maintain an effective expenditure and revenue
22 control, the parkland trust revolving fund is subject in all respects
23 to chapter 43.88 RCW, but no appropriation is required to permit
24 expenditures and payment of obligations from the fund.

25 (4) The department is authorized to solicit and receive voluntary
26 contributions for the purpose of operating and maintaining public use
27 and recreation facilities, including trails, managed by the
28 department. The department may seek voluntary contributions from
29 individuals and organizations for this purpose. Voluntary
30 contributions will be deposited into the parkland trust revolving
31 fund and used solely for the purpose of public use and recreation
32 facilities operations and maintenance. Voluntary contributions are
33 not considered a fee for use of these facilities.

34 **Sec. 8.** RCW 79.64.110 and 2021 c 334 s 995 and 2021 c 145 s 3
35 are each reenacted and amended to read as follows:

36 (1) Any moneys derived from the lease of state forestlands or
37 from the sale of valuable materials, oils, gases, coal, minerals, or
38 fossils from those lands, except as provided in RCW 79.64.130, or the
39 appraised value of these resources when transferred to a public

1 agency under RCW 79.22.060, (~~except as provided in RCW~~
2 ~~79.22.060(4),~~) must be distributed as follows:

3 (a) For state forestlands acquired through RCW 79.22.040 or by
4 exchange or as replacement for lands acquired through RCW 79.22.040:

5 (i) The expense incurred by the state for administration,
6 reforestation, and protection, not to exceed (~~twenty-five~~) 25
7 percent, which rate of percentage shall be determined by the board,
8 must be returned to the forest development account created in RCW
9 79.64.100. During the 2017-2019, 2019-2021, and 2021-2023 fiscal
10 biennia, the board may increase the (~~twenty-five~~) 25 percent
11 limitation up to (~~twenty-seven~~) 27 percent.

12 (ii) Any balance remaining must be paid to the county in which
13 the land is located or, (~~for~~) if the land acquired under RCW
14 79.22.040 was exchanged, transferred, or disposed, payment must be
15 made to the county from which the land was exchanged, transferred, or
16 disposed. For counties participating in a land pool created under RCW
17 79.22.140, to each participating county proportionate to its
18 contribution of asset value to the land pool as determined by the
19 board. Payments made under this subsection are to be paid,
20 distributed, and prorated(~~(, except as otherwise provided in this~~
21 ~~section,~~) to the various funds in the same manner as general taxes
22 are paid and distributed during the year of payment. However, (~~in~~
23 ~~order to test county flexibility in distributing state forestland~~
24 ~~revenue,~~) a county may in its discretion pay, distribute, and
25 prorate payments made under this subsection of moneys derived from
26 state forestlands acquired by exchange (~~between July 28, 2019, and~~
27 ~~June 30, 2020~~) or as replacement lands, for lands acquired through
28 RCW 79.22.040, (~~within the same county,~~) in the same manner as
29 general taxes are paid and distributed during the year of payment for
30 the former state forestlands that were subject to the exchange.

31 (iii) Any balance remaining, paid to a county with a population
32 of less than (~~sixteen thousand~~) 16,000, must first be applied to
33 the reduction of any indebtedness existing in the current expense
34 fund of the county during the year of payment.

35 (iv) With regard to moneys remaining under this subsection
36 (1)(a), within seven working days of receipt of these moneys, the
37 department shall certify to the state treasurer the amounts to be
38 distributed to the counties. The state treasurer shall distribute
39 funds to the counties four times per month, with no more than (~~ten~~)
40 10 days between each payment date.

1 (b) For state forestlands acquired through RCW 79.22.010 or by
2 exchange or as replacement lands for lands acquired through RCW
3 79.22.010, except as provided in RCW 79.64.120:

4 (i) Fifty percent shall be placed in the forest development
5 account.

6 (ii) Fifty percent shall be prorated and distributed to the state
7 general fund, to be dedicated for the benefit of the public schools,
8 to the county in which the land is located or, for counties
9 participating in a land pool created under RCW 79.22.140, to each
10 participating county proportionate to its contribution of asset value
11 to the land pool as determined by the board, and according to the
12 relative proportions of tax levies of all taxing districts in the
13 county. The portion to be distributed to the state general fund shall
14 be based on the regular school levy rate under RCW 84.52.065 (1) and
15 (2) and the levy rate for any school district enrichment levies. With
16 regard to the portion to be distributed to the counties, the
17 department shall certify to the state treasurer the amounts to be
18 distributed within seven working days of receipt of the money. The
19 state treasurer shall distribute funds to the counties four times per
20 month, with no more than ~~((ten))~~ 10 days between each payment date.
21 The money distributed to the county must be paid, distributed, and
22 prorated to the various other funds in the same manner as general
23 taxes are paid and distributed during the year of payment.

24 (2) A school district may transfer amounts deposited in its debt
25 service fund pursuant to this section into its capital projects fund
26 as authorized in RCW 28A.320.330.

27 **Sec. 9.** RCW 79.19.020 and 2003 c 334 s 526 are each amended to
28 read as follows:

29 The department, with the approval of the board, may purchase
30 property at fair market value to be held in a land bank, which is
31 hereby created within the department. Property so purchased shall be
32 property which would be desirable for addition to the public lands of
33 the state because of the potential for natural resource or income
34 production of the property. ~~((The total acreage held in the land bank
35 shall not exceed one thousand five hundred acres.))~~

36 **Sec. 10.** RCW 79.19.030 and 2004 c 199 s 215 are each amended to
37 read as follows:

38 The department, with the approval of the board, may:

1 (1) Exchange property held in the land bank for any other lands
2 of equal value administered by the department, including ~~((any))~~
3 state lands ~~((held in trust.))~~ and state forestlands;

4 (2) Exchange property held in the land bank for property of equal
5 or greater value which is owned publicly or privately, and which has
6 greater potential for natural resource or income production or which
7 could be more efficiently managed by the department, however, no
8 power of eminent domain is hereby granted to the department; ~~((and))~~

9 ~~((Sell property held in the land bank in the manner provided
10 by law for the sale of state lands))~~ Except as provided in subsection
11 (4) of this section, sell property that has been exchanged into and
12 is held in the land bank as provided under RCW 79.11.340 without any
13 requirement of platting and ~~((to))~~ use the proceeds to acquire
14 property for the land bank which has greater potential for natural
15 resource or income production or which would be more efficiently
16 managed by the department; and

17 (4) If a department lessee owns and resides in a house located on
18 land that has been exchanged into and is held in the land bank, sell
19 the land directly to the lessee for the appraised fair market value
20 of the land and use the proceeds of the sale as provided in
21 subsection (3) of this section. If the lessee does not purchase the
22 land for the appraised fair market value, the department shall sell
23 the land as provided under subsection (3) of this section.

24 **Sec. 11.** RCW 79.11.340 and 2003 c 334 s 399 are each amended to
25 read as follows:

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

31 (2) ~~((When))~~ Except as provided in RCW 79.19.030(4), when the
32 department determines to sell the lands, they ~~((shall))~~ may initially
33 be offered for sale either at public auction or direct ~~((sale))~~
34 transfer to public agencies as provided in this chapter.

35 (3) ~~((If the lands are not sold at public auction, the))~~ The
36 department may, with approval of the board, market the lands through
37 persons licensed under chapter 18.85 RCW or through other
38 commercially feasible means at a price not lower than the land's
39 appraised value.

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

5 (5) Proceeds of the sale shall be deposited into the appropriate
6 fund in the state treasury unless the grantor in any deed or the
7 testator in case of a devise specifies that the proceeds of the sale
8 be devoted to a particular purpose.

9 NEW SECTION. **Sec. 12.** Sections 2 and 3 of this act are each
10 added to chapter 79.17 RCW and codified with the subchapter heading
11 "part 4, trust land transfer program."

--- END ---