
SUBSTITUTE HOUSE BILL 1774

State of Washington

69th Legislature

2025 Regular Session

By House Transportation (originally sponsored by Representatives Fey, Parshley, Ramel, Wylie, Paul, Peterson, Bronoske, Reed, Doglio, Taylor, Ryu, Gregerson, Fosse, Ormsby, Nance, Springer, Zahn, Morgan, Macri, Hill, Obras, Leavitt, and Thomas)

READ FIRST TIME 02/21/25.

1 AN ACT Relating to modifying allowable terms for the lease of
2 unused highway land; amending RCW 47.12.120; and creating a new
3 section.

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

5 NEW SECTION. **Sec. 1.** The legislature recognizes that certain
6 property owned by the state of Washington under the jurisdiction of
7 the department of transportation that is not presently needed for
8 highway purposes could be used to serve pressing community purposes.
9 The legislature believes that the department should be enabled to
10 execute lease agreements with governmental entities and nonprofit
11 organizations that can help serve these community purposes using
12 lease terms that take into account the community benefit these leases
13 will provide. Therefore, the legislature is establishing a framework
14 for the department to use in developing lease agreements in this
15 context. The legislature intends for the department to consider the
16 authorization of these lease agreements urgent in light of the
17 compelling needs that can be served by the leasing of certain
18 properties under the jurisdiction of the department, and encourages
19 the department to move forward developing the lease agreements it
20 determines are appropriate, based on the factors provided below, as
21 expeditiously as possible.

1 **Sec. 2.** RCW 47.12.120 and 2022 c 59 s 1 are each amended to read
2 as follows:

3 The department may rent or lease any lands, improvements, or air
4 space above or below any lands that are held for highway purposes but
5 are not presently needed. The rental or lease:

6 (1) Must be upon such terms and conditions as the department may
7 determine;

8 (2) Is subject to the provisions and requirements of zoning
9 ordinances of political subdivisions of government;

10 (3) Includes lands used or to be used for both limited access and
11 conventional highways that otherwise meet the requirements of this
12 section;

13 (4) In the case of bus shelters provided by a local transit
14 authority that include commercial advertising, may charge the transit
15 authority only for commercial space; (~~and~~)

16 (5) In the case of the project for community purposes established
17 in RCW 47.12.380, must be consistent with the provisions of that
18 section; and

19 (6) (a) (i) In the case of a lease agreement with a public agency,
20 special purpose district, or community-based nonprofit organization,
21 the department's process for determining adequate consideration for
22 renting or leasing lands, improvements, or air space, may incorporate
23 identified social, environmental, or economic benefits to be provided
24 by the lessee for community purposes as a component of the
25 consideration to be provided by the lessee when the use of the
26 property by the lessee is for a community purpose. Use of this
27 methodology is at the department's discretion. The following factors
28 shall be considered by the department in its evaluation of a
29 potential lease agreement under this methodology:

30 (A) The extent to which the community purpose will benefit
31 overburdened communities and vulnerable populations, as these terms
32 are defined in RCW 70A.02.010;

33 (B) The benefit of the community purpose to a broad number of
34 members of the public;

35 (C) The likelihood that, during the term of the potential lease
36 agreement being considered, the property has practical and
37 economically feasible uses for which the department could obtain
38 economic rent during this period; and

39 (D) The lessee's qualifications to perform the community purpose
40 and to fulfill its terms of the lease agreement, through

1 consideration of factors that include, but are not limited to, the
2 lessee's prior performance related to the community purpose and the
3 financial feasibility of the lessee performing the obligations
4 required under the lease agreement.

5 (ii) (A) To the extent the department finds all or a portion of
6 costs associated with the leasing process to be undertaken for
7 community purpose projects identified under this subsection (6)
8 cannot reasonably be assumed by the lessee, the department may use
9 funds specifically appropriated for this purpose for these costs.

10 (B) To the extent specifically appropriated funds are
11 unavailable, the department shall include a budget request to the
12 legislature during the next legislative session for sufficient funds
13 the department determines are necessary to complete a leasing process
14 under (a) (ii) (A) of this subsection.

15 (b) As part of the consideration to the department, a lease
16 agreement under (a) of this subsection must require the lessee to
17 maintain and secure the premises.

18 (c) A lease agreement under (a) of this subsection must include:

19 (i) A requirement that the use of the premises shall be limited
20 to the designated community purposes;

21 (ii) Remedies that apply if the lessee of the property fails to
22 use it for the designated community purposes or ceases to use it for
23 these purposes;

24 (iii) To the extent applicable, a requirement that the lessee
25 assumes liability for the lessee's uses of the property to which the
26 requirements of 23 U.S.C. Sec. 138 and 49 U.S.C. Sec. 303, commonly
27 known as section 4(f) of the department of transportation act of
28 1966, or 54 U.S.C. Sec. 200305, commonly known as section 6(f) of the
29 land and water conservation fund act of 1965, apply; and

30 (iv) Evidence of commercial or self-insurance at levels deemed
31 sufficient by the department, as well as appropriate indemnification.

32 (d) Leases under this subsection (6) may not be undertaken by the
33 department for the community purposes described in (f) (i) (A) or (B)
34 of this subsection (6) on the right-of-way of a state highway or in
35 places that would place infrastructure or the traveling public in
36 jeopardy.

37 (e) The department must provide an annual report to the
38 transportation committees of the legislature by December 1st of each
39 year with information on the active lease agreements authorized under

1 this subsection, including the community purposes being served and a
2 summary of relevant lease terms.

3 (f) For the purposes of this subsection (6):

4 (i) "Community purposes" means providing one or more of the
5 following for public benefit purposes:

6 (A) Housing, housing assistance, and related services;

7 (B) Shelter programs including, but not limited to, indoor
8 emergency shelters; transitional housing; emergency housing;
9 supportive housing; and safe spaces, such as tiny home villages,
10 pallet home villages, and recreational vehicle lots;

11 (C) Parks;

12 (D) Enhanced public spaces including, but not limited to, public
13 plazas;

14 (E) Public recreation; or

15 (F) Public transportation uses.

16 (ii) (A) "Adequate consideration" means consideration that is
17 comprised of:

18 (I) The performance of activities that fulfill the community
19 purpose designated in the lease agreement;

20 (II) Maintenance and security of the premises to be provided
21 under the lease agreement; and

22 (III) May include additional monetary or nonmonetary
23 consideration as provided in (f) (ii) (B) of this subsection.

24 (B) The department may require additional monetary or nonmonetary
25 consideration be provided to the extent it determines that
26 consideration to be provided under (f) (ii) (A) (I) and (II) of this
27 subsection are insufficient consideration for use of the property and
28 that additional consideration is necessary.

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