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**HOUSE BILL 1774**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**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 02/03/25. Referred to Committee on Transportation.

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) The department must provide an annual report to the  
33 transportation committees of the legislature by December 1st of each  
34 year with information on the active lease agreements authorized under  
35 this subsection, including the community purposes being served and a  
36 summary of relevant lease terms.

37 (e) For the purposes of this subsection (6):

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

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

1 (B) Shelter programs including, but not limited to, indoor  
2 emergency shelters; transitional housing; emergency housing;  
3 supportive housing; and safe spaces, such as tiny home villages,  
4 pallet home villages, and recreational vehicle lots;

5 (C) Parks;

6 (D) Enhanced public spaces including, but not limited to, public  
7 plazas;

8 (E) Public recreation; or

9 (F) Public transportation uses.

10 (ii) (A) "Adequate consideration" means consideration that is  
11 comprised of:

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

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

16 (III) May include additional monetary or nonmonetary  
17 consideration as provided in (e) (ii) (B) of this subsection.

18 (B) The department may require additional monetary or nonmonetary  
19 consideration be provided to the extent it determines that  
20 consideration to be provided under (e) (ii) (A) (I) and (II) of this  
21 subsection are insufficient consideration for use of the property and  
22 that additional consideration is necessary.

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