

---

HOUSE BILL 1392

---

State of Washington

61st Legislature

2009 Regular Session

By Representatives Springer, Driscoll, Kessler, Probst, Ericks, Sullivan, Dunshee, Takko, Blake, McCoy, Eddy, Clibborn, Dickerson, Williams, Sells, Goodman, Kenney, and Moeller

Read first time 01/20/09. Referred to Committee on Judiciary.

1 AN ACT Relating to eminent domain; amending RCW 8.25.020,  
2 28A.335.120, 35.58.340, 35.80A.030, 35.94.040, 36.68.010, 43.43.115,  
3 43.82.010, 47.12.063, 47.12.283, 47.52.050, 53.08.090, 53.25.040,  
4 70.44.300, 79.36.330, 80.28.230, 80.40.030, and 81.112.080; adding new  
5 sections to chapter 8.25 RCW; adding a new section to chapter 39.33  
6 RCW; and creating new sections.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 8.25 RCW  
9 to read as follows:

10 (1) At the time the condemnor provides its initial written offer of  
11 monetary compensation to a property owner, the offer shall inform the  
12 owner that his or her property may be the subject of condemnation. The  
13 offer shall include a written statement documenting the condemnor's  
14 consideration of and reasons for rejecting alternatives to the  
15 condemnation sought or to the nature or extent of the condemnation  
16 sought. The offer shall further inform the owner that the condemnor  
17 must consider any reasonable alternative to condemnation or any  
18 reasonable alternative to the nature and extent of condemnation

1 suggested by the property owner in writing as provided in subsection  
2 (3) of this section.

3 (2) The condemnor's written offer of monetary compensation shall be  
4 delivered personally, or in the same manner as provided in RCW  
5 8.25.290(2)(a)(i).

6 (3) The condemnor shall accept for consideration all reasonable  
7 alternatives submitted by the owner up to the time the condemnor issues  
8 its notice of planned final action under RCW 8.25.290, or up to sixty  
9 days after the condemnor provides the initial written offer of monetary  
10 compensation to the property owner, whichever period is longer. The  
11 condemnor shall give thorough consideration to all reasonable  
12 alternatives and provide a written response to the owner regarding its  
13 decision on the alternatives prior to taking final action as defined in  
14 RCW 8.25.290. If the condemnor does not adopt a reasonable  
15 alternative, it shall include in its response an explanation of the  
16 reasons the alternative was rejected.

17 **Sec. 2.** RCW 8.25.020 and 1999 c 52 s 1 are each amended to read as  
18 follows:

19 There shall be paid by the condemnor in respect of each parcel of  
20 real property acquired by eminent domain or by consent under threat  
21 thereof, in addition to the fair market value of the property, a sum  
22 equal to the various expenditures actually and reasonably incurred by  
23 those with an interest or interests in said parcel in the process of  
24 evaluating the condemnor's offer to buy the same, but not to exceed a  
25 total of (~~seven hundred fifty~~) five thousand dollars. In the case of  
26 multiple interests in a parcel, the division of such sum shall be  
27 determined by the court or by agreement of the parties.

28 NEW SECTION. **Sec. 3.** The legislature finds that when government  
29 or a private corporation exercises its power of eminent domain by  
30 condemning private property, the condemnation process causes hardship  
31 on the property owner that goes beyond the financial loss of the  
32 property. While property owners receive fair market value as  
33 compensation for their condemned property, this payment does not  
34 compensate property owners for the additional hardship they undergo  
35 during the condemnation process. This additional hardship includes the  
36 harm created when a condemning authority condemns property and then

1 does not use the property for the intended purpose or for another  
2 public purpose, and then sells the property to a private individual or  
3 entity. In consideration of this additional hardship, the legislature  
4 intends to provide property owners with the right to repurchase their  
5 condemned property if it is not used for a public purpose and is sold  
6 by the condemning authority within seven years after the property was  
7 acquired through or under the threat of condemnation.

8 NEW SECTION. **Sec. 4.** A new section is added to chapter 8.25 RCW  
9 to read as follows:

10 (1) When real property is acquired through condemnation or under  
11 the threat of condemnation, the owner of the property retains a right  
12 to repurchase the property, or a portion of or interest in the  
13 property, in accordance with this section.

14 (2) If real property or an interest in real property that was  
15 transferred to an acquiring entity through or under the threat of  
16 condemnation has not been or will not be put to use for a public  
17 purpose within five years after the date the property was transferred  
18 to the acquiring entity, the acquiring entity must provide a written  
19 notice to a former owner certifying that the acquiring entity is making  
20 reasonable progress towards the project for which the property was  
21 condemned. The acquiring entity must provide the written notice no  
22 later than five years, and no sooner than four years, after the date  
23 the property was transferred to the acquiring entity. As used in this  
24 section, "former owner" means the person or persons from whom the  
25 acquiring entity acquired title or that person's or those persons'  
26 successors or assigns to the property or property interest that is  
27 subject to the repurchase right.

28 (3) If, within seven years after the date real property or an  
29 interest in real property was transferred to an acquiring entity  
30 through or under the threat of condemnation, the acquiring entity  
31 determines that all or a portion of the property or an interest in the  
32 property is no longer necessary for a public purpose and should be  
33 sold, a former owner has the right to repurchase the property or  
34 property interest in accordance with this section.

35 (a) At least ninety days prior to the date on which the acquiring  
36 entity will announce a public process for property disposition or, if  
37 the sale is to be negotiated, at least ninety days prior to the date on

1 which a purchase and sale agreement or similar document is to be  
2 signed, the acquiring entity shall (i) publish notice of its  
3 determination to sell the property or a portion of the property in a  
4 legal newspaper of general circulation in the area where the property  
5 to be sold is located, (ii) describe generally any easements, other  
6 restrictions, or reserved rights the acquiring entity intends to retain  
7 upon sale, and (iii) mail notice of the determination to the former  
8 owner of the property at the former owner's last known address or to a  
9 forwarding address if that owner has provided the acquiring entity with  
10 a forwarding address.

11 (b) If the former owner notifies the acquiring entity in writing  
12 within thirty days of the date of notice provided under (a) of this  
13 subsection that the former owner intends to exercise the repurchase  
14 right granted by this section, the acquiring entity shall, unless it  
15 already has a completed current independent appraisal for the property,  
16 immediately arrange for an independent appraisal to determine the fair  
17 market value of the property or portion of property subject to  
18 repurchase, adjusted to reflect the value of any physical changes to  
19 the property, such as improvements or removal of structures. Within  
20 thirty days of receipt of the former owner's notice of intent to  
21 exercise the repurchase right or following the acquiring entity's  
22 receipt of the appraisal, the acquiring entity shall provide the former  
23 owner with a written copy of the appraisal. All costs of appraisal  
24 shall be paid by the acquiring entity. If the former owner does not  
25 provide timely written notice to the acquiring entity of the intent to  
26 exercise a repurchase right, that right is extinguished and the  
27 acquiring entity is relieved of any further obligation under this  
28 section.

29 (c) Within thirty days of the date the acquiring entity provides a  
30 written copy of the appraisal to the former owner under (b) of this  
31 subsection, the former owner may exercise the repurchase right granted  
32 by this section by delivering to the acquiring entity earnest money or  
33 a deposit in a form determined by the acquiring entity in an amount  
34 equal to five percent of the appraised value, together with a written  
35 promise to pay, within thirty days, the following:

36 (i) The lesser of (A) the appraised value less the earnest money or  
37 deposit, or (B) an amount equal to the compensation received from the  
38 acquiring entity when the property or portion of property was condemned

1 or sold under threat of condemnation, with interest accrued at the  
2 market rate, and with the amount adjusted to reflect the value of any  
3 physical changes to the property, such as improvements or removal of  
4 structures, as determined by the independent appraisal, less the  
5 earnest money or deposit; and

6 (ii) All required fees and costs otherwise required for the  
7 transfer of real property.

8 (d) Upon receipt of the full payment required in (c) of this  
9 subsection, the acquiring entity shall transfer title to the former  
10 owner, subject to any easements, other restrictions, or reserved rights  
11 retained by the acquiring entity. If the former owner fails to  
12 complete the sale, the earnest money or deposit is forfeited to the  
13 acquiring entity, the former owner's repurchase right is extinguished,  
14 and the acquiring entity is relieved of any further obligation under  
15 this section.

16 (e) In the event that the acquiring entity and the former owner  
17 cannot agree on the amount of compensation paid for a portion of the  
18 property under (c)(i)(B) of this subsection, the acquiring entity and  
19 the former owner shall each arrange for an independent appraisal of the  
20 just compensation allocation to the portion of the property to be sold.  
21 If the acquiring entity and the former owner cannot then agree on the  
22 amount, either party may initiate a lawsuit to determine the amount, or  
23 they may agree to binding arbitration in which case the appraisals  
24 shall be submitted to a third, independent appraiser. The third  
25 appraiser shall sit as an arbitrator and determine the amount of just  
26 compensation under (c)(i)(B) of this subsection. The arbitrator's  
27 decision shall be final and binding. The acquiring entity and former  
28 owner shall bear their own costs and fees, and pay equally the costs  
29 and fees of the arbitrator.

30 (4) The acquiring entity may reject a notice of intent under  
31 subsection (3)(b) of this section received from a person claiming to be  
32 a successor or assignee that is not accompanied by evidence sufficient  
33 to demonstrate that the person is the successor or assignee of the  
34 person from whom the acquiring entity acquired title.

35 (5) The obligations imposed on an acquiring entity in this section  
36 are in addition to any provided by law for the surplusing or sale of  
37 public property to private parties. Nothing in this section precludes

1 an acquiring entity from retaining the property and determining not to  
2 surplus and sell the property.

3 **Sec. 5.** RCW 28A.335.120 and 2006 c 263 s 913 are each amended to  
4 read as follows:

5 (1) The board of directors of any school district of this state  
6 may:

7 (a) Sell for cash, at public or private sale, and convey by deed  
8 all interest of the district in or to any of the real property of the  
9 district which is no longer required for school purposes; and

10 (b) Purchase real property for the purpose of locating thereon and  
11 affixing thereto any house or houses and appurtenant buildings removed  
12 from school sites owned by the district and sell for cash, at public or  
13 private sale, and convey by deed all interest of the district in or to  
14 such acquired and improved real property.

15 (2) When the board of directors of any school district proposes a  
16 sale of school district real property pursuant to this section and the  
17 value of the property exceeds seventy thousand dollars, the board shall  
18 publish a notice of its intention to sell the property. The notice  
19 shall be published at least once each week during two consecutive weeks  
20 in a legal newspaper with a general circulation in the area in which  
21 the school district is located. The notice shall describe the property  
22 to be sold and designate the place where and the day and hour when a  
23 hearing will be held. The board shall hold a public hearing upon the  
24 proposal to dispose of the school district property at the place and  
25 the day and hour fixed in the notice and admit evidence offered for and  
26 against the propriety and advisability of the proposed sale.

27 (3) The board of directors of any school district desiring to sell  
28 surplus real property shall publish a notice in a newspaper of general  
29 circulation in the school district. School districts shall not sell  
30 the property for at least forty-five days following the publication of  
31 the newspaper notice.

32 (4) Private schools shall have the same rights as any other person  
33 or entity to submit bids for the purchase of surplus real property and  
34 to have such bids considered along with all other bids.

35 (5) Any sale of school district real property authorized pursuant  
36 to this section shall be preceded by a market value appraisal by a  
37 professionally designated real estate appraiser as defined in RCW

1 74.46.020 or a general real estate appraiser certified under chapter  
2 18.140 RCW selected by the board of directors and no sale shall take  
3 place if the sale price would be less than ninety percent of the  
4 appraisal made by the real estate appraiser: PROVIDED, That if the  
5 property has been on the market for one year or more the property may  
6 be reappraised and sold for not less than seventy-five percent of the  
7 reappraised value with the unanimous consent of the board.

8 (6) If in the judgment of the board of directors of any district  
9 the sale of real property of the district not needed for school  
10 purposes would be facilitated and greater value realized through use of  
11 the services of licensed real estate brokers, a contract for such  
12 services may be negotiated and concluded: PROVIDED, That the use of a  
13 licensed real estate broker will not eliminate the obligation of the  
14 board of directors to provide the notice described in this section:  
15 PROVIDED FURTHER, That the fee or commissions charged for any broker  
16 services shall not exceed seven percent of the resulting sale value for  
17 a single parcel: PROVIDED FURTHER, That any professionally designated  
18 real estate appraiser as defined in RCW 74.46.020 or a general real  
19 estate appraiser certified under chapter 18.140 RCW selected by the  
20 board to appraise the market value of a parcel of property to be sold  
21 may not be a party to any contract with the school district to sell  
22 such parcel of property for a period of three years after the  
23 appraisal.

24 (7) If in the judgment of the board of directors of any district  
25 the sale of real property of the district not needed for school  
26 purposes would be facilitated and greater value realized through sale  
27 on contract terms, a real estate sales contract may be executed between  
28 the district and buyer.

29 (8) This section is subject to and operates only to the extent its  
30 application is not inconsistent with the operation of section 4 of this  
31 act with respect to property acquired through or under the threat of  
32 condemnation.

33 **Sec. 6.** RCW 35.58.340 and 1993 c 240 s 9 are each amended to read  
34 as follows:

35 Except as otherwise provided herein, a metropolitan municipal  
36 corporation may sell, or otherwise dispose of any real or personal  
37 property acquired in connection with any authorized metropolitan

1 function and which is no longer required for the purposes of the  
2 metropolitan municipal corporation in the same manner as provided for  
3 cities. When the metropolitan council determines that a metropolitan  
4 facility or any part thereof which has been acquired from a component  
5 city or county without compensation is no longer required for  
6 metropolitan purposes, but is required as a local facility by the city  
7 or county from which it was acquired, the metropolitan council shall by  
8 resolution transfer it to such city or county. This section is subject  
9 to and operates only to the extent its application is not inconsistent  
10 with the operation of section 4 of this act with respect to property  
11 acquired through or under the threat of condemnation.

12 **Sec. 7.** RCW 35.80A.030 and 1989 c 271 s 241 are each amended to  
13 read as follows:

14 A county, city, or town may dispose of real property acquired  
15 pursuant to this section to private persons only under such reasonable,  
16 competitive procedures as it shall prescribe. The county, city, or  
17 town may accept such proposals as it deems to be in the public interest  
18 and in furtherance of the purposes of this chapter. Thereafter, the  
19 county, city, or town may execute and deliver contracts, deeds, leases,  
20 and other instruments of transfer. This section is subject to and  
21 operates only to the extent its application is not inconsistent with  
22 the operation of section 4 of this act with respect to property  
23 acquired through or under the threat of condemnation.

24 **Sec. 8.** RCW 35.94.040 and 1973 1st ex.s. c 95 s 1 are each amended  
25 to read as follows:

26 Whenever a city shall determine, by resolution of its legislative  
27 authority, that any lands, property, or equipment originally acquired  
28 for public utility purposes is surplus to the city's needs and is not  
29 required for providing continued public utility service, then such  
30 legislative authority by resolution and after a public hearing may  
31 cause such lands, property, or equipment to be leased, sold, or  
32 conveyed. Such resolution shall state the fair market value or the  
33 rent or consideration to be paid and such other terms and conditions  
34 for such disposition as the legislative authority deems to be in the  
35 best public interest.



1 The provisions of RCW 35.94.020 and 35.94.030 shall not apply to  
2 dispositions authorized by this section.

3 This section is subject to and operates only to the extent its  
4 application is not inconsistent with the operation of section 4 of this  
5 act with respect to property acquired through or under the threat of  
6 condemnation.

7 **Sec. 9.** RCW 36.68.010 and 1963 c 4 s 36.68.010 are each amended to  
8 read as follows:

9 Counties may establish park and playground systems for public  
10 recreational purposes and for such purposes shall have the power to  
11 acquire lands, buildings and other facilities by gift, purchase, lease,  
12 devise, bequest and condemnation. A county may lease or sell any park  
13 property, buildings or facilities surplus to its needs, or no longer  
14 suitable for park purposes: PROVIDED, That such park property shall be  
15 subject to the requirements and provisions of notice, hearing, bid or  
16 intergovernmental transfer as provided in chapter 36.34 RCW: PROVIDED  
17 FURTHER, That nothing in this section shall be construed as authorizing  
18 any county to sell any property which such county acquired by  
19 condemnation for park or playground or other public recreational  
20 purposes on or after January 1, 1960, until held for five years or more  
21 after such acquisition: PROVIDED FURTHER, That funds acquired from the  
22 lease or sale of any park property, buildings or facilities shall be  
23 placed in the park and recreation fund to be used for capital purposes.  
24 This section is subject to and operates only to the extent its  
25 application is not inconsistent with the operation of section 4 of this  
26 act with respect to property acquired through or under the threat of  
27 condemnation.

28 NEW SECTION. **Sec. 10.** A new section is added to chapter 39.33 RCW  
29 to read as follows:

30 This chapter is subject to and operates only to the extent its  
31 application is not inconsistent with the operation of section 4 of this  
32 act with respect to property acquired through or under the threat of  
33 condemnation.

34 **Sec. 11.** RCW 43.43.115 and 1993 c 438 s 1 are each amended to read  
35 as follows:

1 Whenever real property owned by the state of Washington and under  
2 the jurisdiction of the Washington state patrol is no longer required,  
3 it may be sold at fair market value. All proceeds received from the  
4 sale of real property, less any real estate broker commissions, shall  
5 be deposited into the state patrol highway account: PROVIDED, That if  
6 accounts or funds other than the state patrol highway account have  
7 contributed to the purchase or improvement of the real property, the  
8 office of financial management shall determine the proportional equity  
9 of each account or fund in the property and improvements, and shall  
10 direct the proceeds to be deposited proportionally therein. This  
11 section is subject to and operates only to the extent its application  
12 is not inconsistent with the operation of section 4 of this act with  
13 respect to property acquired through or under the threat of  
14 condemnation.

15 **Sec. 12.** RCW 43.82.010 and 2007 c 506 s 8 are each amended to read  
16 as follows:

17 (1) The director of general administration, on behalf of the agency  
18 involved and after consultation with the office of financial  
19 management, shall purchase, lease, lease purchase, rent, or otherwise  
20 acquire all real estate, improved or unimproved, as may be required by  
21 elected state officials, institutions, departments, commissions,  
22 boards, and other state agencies, or federal agencies where joint state  
23 and federal activities are undertaken and may grant easements and  
24 transfer, exchange, sell, lease, or sublease all or part of any surplus  
25 real estate for those state agencies which do not otherwise have the  
26 specific authority to dispose of real estate. This section does not  
27 transfer financial liability for the acquired property to the  
28 department of general administration.

29 (2) Except for real estate occupied by federal agencies, the  
30 director shall determine the location, size, and design of any real  
31 estate or improvements thereon acquired or held pursuant to subsection  
32 (1) of this section. Facilities acquired or held pursuant to this  
33 chapter, and any improvements thereon, shall conform to standards  
34 adopted by the director and approved by the office of financial  
35 management governing facility efficiency unless a specific exemption  
36 from such standards is provided by the director of general  
37 administration. The director of general administration shall report to

1 the office of financial management and the appropriate committees of  
2 the legislature annually on any exemptions granted pursuant to this  
3 subsection.

4 (3) The director of general administration may fix the terms and  
5 conditions of each lease entered into under this chapter, except that  
6 no lease shall extend greater than twenty years in duration. The  
7 director of general administration may enter into a long-term lease  
8 greater than ten years in duration upon a determination by the director  
9 of the office of financial management that the long-term lease provides  
10 a more favorable rate than would otherwise be available, it appears to  
11 a substantial certainty that the facility is necessary for use by the  
12 state for the full length of the lease term, and the facility meets the  
13 standards adopted pursuant to subsection (2) of this section. The  
14 director of general administration may enter into a long-term lease  
15 greater than ten years in duration if an analysis shows that the life-  
16 cycle cost of leasing the facility is less than the life-cycle cost of  
17 purchasing or constructing a facility in lieu of leasing the facility.

18 (4) Except as permitted under chapter 39.94 RCW, no lease for or on  
19 behalf of any state agency may be used or referred to as collateral or  
20 security for the payment of securities offered for sale through a  
21 public offering. Except as permitted under chapter 39.94 RCW, no lease  
22 for or on behalf of any state agency may be used or referred to as  
23 collateral or security for the payment of securities offered for sale  
24 through a private placement without the prior written approval of the  
25 state treasurer. However, this limitation shall not prevent a lessor  
26 from assigning or encumbering its interest in a lease as security for  
27 the repayment of a promissory note provided that the transaction would  
28 otherwise be an exempt transaction under RCW 21.20.320. The state  
29 treasurer shall adopt rules that establish the criteria under which any  
30 such approval may be granted. In establishing such criteria the state  
31 treasurer shall give primary consideration to the protection of the  
32 state's credit rating and the integrity of the state's debt management  
33 program. If it appears to the state treasurer that any lease has been  
34 used or referred to in violation of this subsection or rules adopted  
35 under this subsection, then he or she may recommend that the governor  
36 cause such lease to be terminated. The department of general  
37 administration shall promptly notify the state treasurer whenever it

1 may appear to the department that any lease has been used or referred  
2 to in violation of this subsection or rules adopted under this  
3 subsection.

4 (5) It is the policy of the state to encourage the colocation and  
5 consolidation of state services into single or adjacent facilities,  
6 whenever appropriate, to improve public service delivery, minimize  
7 duplication of facilities, increase efficiency of operations, and  
8 promote sound growth management planning.

9 (6) The director of general administration shall provide  
10 coordinated long-range planning services to identify and evaluate  
11 opportunities for colocating and consolidating state facilities. Upon  
12 the renewal of any lease, the inception of a new lease, or the purchase  
13 of a facility, the director of general administration shall determine  
14 whether an opportunity exists for colocating the agency or agencies in  
15 a single facility with other agencies located in the same geographic  
16 area. If a colocation opportunity exists, the director of general  
17 administration shall consult with the affected state agencies and the  
18 office of financial management to evaluate the impact colocation would  
19 have on the cost and delivery of agency programs, including whether  
20 program delivery would be enhanced due to the centralization of  
21 services. The director of general administration, in consultation with  
22 the office of financial management, shall develop procedures for  
23 implementing colocation and consolidation of state facilities.

24 (7) The director of general administration is authorized to  
25 purchase, lease, rent, or otherwise acquire improved or unimproved real  
26 estate as owner or lessee and to lease or sublet all or a part of such  
27 real estate to state or federal agencies. The director of general  
28 administration shall charge each using agency its proportionate rental  
29 which shall include an amount sufficient to pay all costs, including,  
30 but not limited to, those for utilities, janitorial and accounting  
31 services, and sufficient to provide for contingencies; which shall not  
32 exceed five percent of the average annual rental, to meet unforeseen  
33 expenses incident to management of the real estate.

34 (8) If the director of general administration determines that it is  
35 necessary or advisable to undertake any work, construction, alteration,  
36 repair, or improvement on any real estate acquired pursuant to  
37 subsection (1) or (7) of this section, the director shall cause plans  
38 and specifications thereof and an estimate of the cost of such work to

1 be made and filed in his or her office and the state agency benefiting  
2 thereby is hereby authorized to pay for such work out of any available  
3 funds: PROVIDED, That the cost of executing such work shall not exceed  
4 the sum of twenty-five thousand dollars. Work, construction,  
5 alteration, repair, or improvement in excess of twenty-five thousand  
6 dollars, other than that done by the owner of the property if other  
7 than the state, shall be performed in accordance with the public works  
8 law of this state.

9 (9) In order to obtain maximum utilization of space, the director  
10 of general administration shall make space utilization studies, and  
11 shall establish standards for use of space by state agencies. Such  
12 studies shall include the identification of opportunities for  
13 colocation and consolidation of state agency office and support  
14 facilities.

15 (10) The director of general administration may construct new  
16 buildings on, or improve existing facilities, and furnish and equip,  
17 all real estate under his or her management. Prior to the construction  
18 of new buildings or major improvements to existing facilities or  
19 acquisition of facilities using a lease purchase contract, the director  
20 of general administration shall conduct an evaluation of the facility  
21 design and budget using life-cycle cost analysis, value-engineering,  
22 and other techniques to maximize the long-term effectiveness and  
23 efficiency of the facility or improvement.

24 (11) All conveyances and contracts to purchase, lease, rent,  
25 transfer, exchange, or sell real estate and to grant and accept  
26 easements shall be approved as to form by the attorney general, signed  
27 by the director of general administration or the director's designee,  
28 and recorded with the county auditor of the county in which the  
29 property is located.

30 (12) The director of general administration may delegate any or all  
31 of the functions specified in this section to any agency upon such  
32 terms and conditions as the director deems advisable. By January 1st  
33 of each year, beginning January 1, 2008, the department shall submit an  
34 annual report to the office of financial management and the appropriate  
35 committees of the legislature on all delegated leases.

36 (13) This section does not apply to the acquisition of real estate  
37 by:

1 (a) The state college and universities for research or experimental  
2 purposes;

3 (b) The state liquor control board for liquor stores and  
4 warehouses; and

5 (c) The department of natural resources, the department of fish and  
6 wildlife, the department of transportation, and the state parks and  
7 recreation commission for purposes other than the leasing of offices,  
8 warehouses, and real estate for similar purposes.

9 (14) Notwithstanding any provision in this chapter to the contrary,  
10 the department of general administration may negotiate ground leases  
11 for public lands on which property is to be acquired under a financing  
12 contract pursuant to chapter 39.94 RCW under terms approved by the  
13 state finance committee.

14 (15) The department of general administration shall report annually  
15 to the office of financial management and the appropriate fiscal  
16 committees of the legislature on facility leases executed for all state  
17 agencies for the preceding year, lease terms, and annual lease costs.  
18 The report must include leases executed under RCW 43.82.045 and  
19 subsection (12) of this section.

20 (16) This section is subject to and operates only to the extent its  
21 application is not inconsistent with the operation of section 4 of this  
22 act with respect to property acquired through or under the threat of  
23 condemnation.

24 **Sec. 13.** RCW 47.12.063 and 2006 c 17 s 2 are each amended to read  
25 as follows:

26 (1) It is the intent of the legislature to continue the  
27 department's policy giving priority consideration to abutting property  
28 owners in agricultural areas when disposing of property through its  
29 surplus property program under this section.

30 (2) Whenever the department determines that any real property owned  
31 by the state of Washington and under the jurisdiction of the department  
32 is no longer required for transportation purposes and that it is in the  
33 public interest to do so, the department may sell the property or  
34 exchange it in full or part consideration for land or improvements or  
35 for construction of improvements at fair market value to any of the  
36 following governmental entities or persons:

37 (a) Any other state agency;

1 (b) The city or county in which the property is situated;  
2 (c) Any other municipal corporation;  
3 (d) Regional transit authorities created under chapter 81.112 RCW;  
4 (e) The former owner of the property from whom the state acquired  
5 title;

6 (f) In the case of residentially improved property, a tenant of the  
7 department who has resided thereon for not less than six months and who  
8 is not delinquent in paying rent to the state;

9 (g) Any abutting private owner but only after each other abutting  
10 private owner (if any), as shown in the records of the county assessor,  
11 is notified in writing of the proposed sale. If more than one abutting  
12 private owner requests in writing the right to purchase the property  
13 within fifteen days after receiving notice of the proposed sale, the  
14 property shall be sold at public auction in the manner provided in RCW  
15 47.12.283;

16 (h) To any person through the solicitation of written bids through  
17 public advertising in the manner prescribed by RCW 47.28.050;

18 (i) To any other owner of real property required for transportation  
19 purposes;

20 (j) In the case of property suitable for residential use, any  
21 nonprofit organization dedicated to providing affordable housing to  
22 very low-income, low-income, and moderate-income households as defined  
23 in RCW 43.63A.510 and is eligible to receive assistance through the  
24 Washington housing trust fund created in chapter 43.185 RCW; or

25 (k) A federally recognized Indian tribe within whose reservation  
26 boundary the property is located.

27 (3) Sales to purchasers may at the department's option be for cash,  
28 by real estate contract, or exchange of land or improvements.  
29 Transactions involving the construction of improvements must be  
30 conducted pursuant to chapter 47.28 RCW or Title 39 RCW, as applicable,  
31 and must comply with all other applicable laws and rules.

32 (4) Conveyances made pursuant to this section shall be by deed  
33 executed by the secretary of transportation and shall be duly  
34 acknowledged.

35 (5) Unless otherwise provided, all moneys received pursuant to the  
36 provisions of this section less any real estate broker commissions paid  
37 pursuant to RCW 47.12.320 shall be deposited in the motor vehicle fund.

1       (6) This section is subject to and operates only to the extent its  
2 application is not inconsistent with the operation of section 4 of this  
3 act with respect to property acquired through or under the threat of  
4 condemnation.

5       **Sec. 14.** RCW 47.12.283 and 1979 ex.s. c 189 s 1 are each amended  
6 to read as follows:

7       (1) Whenever the department of transportation determines that any  
8 real property owned by the state of Washington and under the  
9 jurisdiction of the department is no longer required for highway  
10 purposes and that it is in the public interest to do so, the department  
11 may, in its discretion, sell the property under RCW 47.12.063 or under  
12 subsections (2) through (6) of this section.

13       (2) Whenever the department determines to sell real property under  
14 its jurisdiction at public auction, the department shall first give  
15 notice thereof by publication on the same day of the week for two  
16 consecutive weeks, with the first publication at least two weeks prior  
17 to the date of the auction, in a legal newspaper of general circulation  
18 in the area where the property to be sold is located. The notice shall  
19 be placed in both the legal notices section and the real estate  
20 classified section of the newspaper. The notice shall contain a  
21 description of the property, the time and place of the auction, and the  
22 terms of the sale. The sale may be for cash or by real estate  
23 contract.

24       (3) The department shall sell the property at the public auction,  
25 in accordance with the terms set forth in the notice, to the highest  
26 and best bidder providing the bid is equal to or higher than the  
27 appraised fair market value of the property.

28       (4) If no bids are received at the auction or if all bids are  
29 rejected, the department may, in its discretion, enter into  
30 negotiations for the sale of the property or may list the property with  
31 a licensed real estate broker. No property shall be sold by  
32 negotiations or through a broker for less than the property's appraised  
33 fair market value. Any offer to purchase real property pursuant to  
34 this subsection shall be in writing and may be rejected at any time  
35 prior to written acceptance by the department.

36       (5) Before the department shall approve any offer for the purchase  
37 of real property having an appraised value of more than ten thousand



1 dollars, pursuant to subsection (4) of this section, the department  
2 shall first publish a notice of the proposed sale in a local newspaper  
3 of general circulation in the area where the property is located. The  
4 notice shall include a description of the property, the selling price,  
5 the terms of the sale, including the price and interest rate if sold by  
6 real estate contract, and the name and address of the department  
7 employee or the real estate broker handling the transaction. The  
8 notice shall further state that any person may, within ten days after  
9 the publication of the notice, deliver to the designated state employee  
10 or real estate broker a written offer to purchase the property for not  
11 less than ten percent more than the negotiated sale price, subject to  
12 the same terms and conditions. A subsequent offer shall not be  
13 considered unless it is accompanied by a deposit of twenty percent of  
14 the offer in the form of cash, money order, cashiers check, or  
15 certified check payable to the Washington state treasurer, to be  
16 forfeited to the state (for deposit in the motor vehicle fund) if the  
17 offeror fails to complete the sale if the offeror's offer is accepted.  
18 If a subsequent offer is received, the first offeror shall be informed  
19 by registered or certified mail sent to the address stated in his  
20 offer. The first offeror shall then have ten days, from the date of  
21 mailing the notice of the increased offer, in which to file with the  
22 designated state employee or real estate broker a higher offer than  
23 that of the subsequent offeror. After the expiration of the ten day  
24 period, the department shall approve in writing the highest and best  
25 offer which the department then has on file.

26 (6) All moneys received pursuant to this section, less any real  
27 estate broker's commissions paid pursuant to RCW 47.12.320, shall be  
28 deposited in the motor vehicle fund.

29 (7) This section is subject to and operates only to the extent its  
30 application is not inconsistent with the operation of section 4 of this  
31 act with respect to property acquired through or under the threat of  
32 condemnation.

33 **Sec. 15.** RCW 47.52.050 and 1971 ex.s. c 39 s 1 are each amended to  
34 read as follows:

35 (1) For the purpose of this chapter the highway authorities of the  
36 state, counties and incorporated cities and towns, respectively, or in  
37 cooperation one with the other, may acquire private or public property

1 and property rights for limited access facilities and service roads,  
2 including rights of access, air, view and light, by gift, devise,  
3 purchase, or condemnation, in the same manner as such authorities are  
4 now or hereafter may be authorized by law to acquire property or  
5 property rights in connection with highways and streets within their  
6 respective jurisdictions. Except as otherwise provided in subsection  
7 (2) of this section all property rights acquired under the provisions  
8 of this chapter shall be in fee simple. In the acquisition of property  
9 or property rights for any limited access facility or portion thereof,  
10 or for any service road in connection therewith, the state, county,  
11 incorporated city and town authority may, in its discretion, acquire an  
12 entire lot, block or tract of land, if by so doing the interest of the  
13 public will be best served, even though said entire lot, block or tract  
14 is not immediately needed for the limited access facility. This  
15 subsection is subject to and operates only to the extent its  
16 application is not inconsistent with the operation of section 4 of this  
17 act with respect to property acquired through or under the threat of  
18 condemnation.

19 (2) The highway authorities of the state, counties, and  
20 incorporated cities and towns may acquire by gift, devise, purchase, or  
21 condemnation a three dimensional air space corridor in fee simple over  
22 or below the surface of the ground, together with such other property  
23 in fee simple and other property rights as are needed for the  
24 construction and operation of a limited access highway facility, but  
25 only if the acquiring authority finds that the proposal will not:

26 (a) impair traffic safety on the highway or interfere with the free  
27 flow of traffic; or

28 (b) permit occupancy or use of the air space above or below the  
29 highway which is hazardous to the operation of the highway.

30 **Sec. 16.** RCW 53.08.090 and 1994 c 26 s 1 are each amended to read  
31 as follows:

32 (1) A port commission may, by resolution, authorize the managing  
33 official of a port district to sell and convey port district property  
34 of ten thousand dollars or less in value. The authority shall be in  
35 force for not more than one calendar year from the date of resolution  
36 and may be renewed from year to year. Prior to any such sale or  
37 conveyance the managing official shall itemize and list the property to

1 be sold and make written certification to the commission that the  
2 listed property is no longer needed for district purposes. Any large  
3 block of the property having a value in excess of ten thousand dollars  
4 shall not be broken down into components of ten thousand dollars or  
5 less value and sold in the smaller components unless the smaller  
6 components be sold by public competitive bid. A port district may sell  
7 and convey any of its real or personal property valued at more than ten  
8 thousand dollars when the port commission has, by resolution, declared  
9 the property to be no longer needed for district purposes, but no  
10 property which is a part of the comprehensive plan of improvement or  
11 modification thereof shall be disposed of until the comprehensive plan  
12 has been modified to find the property surplus to port needs. The  
13 comprehensive plan shall be modified only after public notice and  
14 hearing provided by RCW 53.20.010.

15 Nothing in this section shall be deemed to repeal or modify  
16 procedures for property sales within industrial development districts  
17 as set forth in chapter 53.25 RCW.

18 (2) The ten thousand dollar figures in subsection (1) of this  
19 section shall be adjusted annually based upon the governmental price  
20 index established by the department of revenue under RCW 82.14.200.

21 (3) This section is subject to and operates only to the extent its  
22 application is not inconsistent with the operation of section 4 of this  
23 act with respect to property acquired through or under the threat of  
24 condemnation.

25 **Sec. 17.** RCW 53.25.040 and 1989 c 167 s 1 are each amended to read  
26 as follows:

27 (1) A port commission may, after a public hearing thereon, of which  
28 at least ten days' notice shall be published in a newspaper of general  
29 circulation in the port district, create industrial development  
30 districts within the district and define the boundaries thereof, if it  
31 finds that the creation of the industrial development district is  
32 proper and desirable in establishing and developing a system of harbor  
33 improvements and industrial development in the port district.

34 (2) The boundaries of an industrial development district created by  
35 subsection (1) of this section may be revised from time to time by  
36 resolution of the port commission, to delete land area therefrom, if

1 the land area to be deleted was acquired by the port district with its  
2 own funds or by gift or transfer other than pursuant to RCW 53.25.050  
3 or 53.25.060.

4 As to any land area to be deleted under this subsection that was  
5 acquired or improved by the port district with funds obtained through  
6 RCW 53.36.100, the port district shall deposit funds equal to the fair  
7 market value of the lands and improvements into the fund for future use  
8 described in RCW 53.36.100 and such funds shall be thereafter subject  
9 to RCW 53.36.100. The fair market value of the land and improvements  
10 shall be determined as of the effective date of the port commission  
11 action deleting the land from the industrial development district and  
12 shall be determined by an average of at least two independent  
13 appraisals by professionally designated real estate appraisers as  
14 defined in RCW 74.46.020 or licensed real estate brokers. The funds  
15 shall be deposited into the fund for future use described in RCW  
16 53.36.100 within ninety days of the effective date of the port  
17 commission action deleting the land area from the industrial district.  
18 Land areas deleted from an industrial development district under this  
19 subsection shall not be further subject to the provisions of this  
20 chapter. This subsection shall apply to presently existing and future  
21 industrial development districts. Land areas deleted from an  
22 industrial development district under this subsection that were  
23 included within such district for less than two years, if the port  
24 district acquired the land through condemnation or as a consequence of  
25 threatened condemnation, shall be offered for sale, for cash, at the  
26 appraised price, to the former owner of the property from whom the  
27 district obtained title. Such offer shall be made by certified or  
28 registered letter to the last known address of the former owner. The  
29 letter shall include the appraised price of the property and notice  
30 that the former owner must respond in writing within thirty days or  
31 lose the right to purchase. If this right to purchase is exercised,  
32 the sale shall be closed by midnight of the sixtieth day, including  
33 nonbusiness days, following close of the thirty-day period. This  
34 section is subject to and operates only to the extent its application  
35 is not inconsistent with the operation of section 4 of this act with  
36 respect to property acquired through or under the threat of  
37 condemnation.

1       **Sec. 18.** RCW 70.44.300 and 1997 c 332 s 17 are each amended to  
2 read as follows:

3       (1) The board of commissioners of any public hospital district may  
4 sell and convey at public or private sale real property of the district  
5 if the board determines by resolution that the property is no longer  
6 required for public hospital district purposes or determines by  
7 resolution that the sale of the property will further the purposes of  
8 the public hospital district.

9       (2) Any sale of district real property authorized pursuant to this  
10 section shall be preceded, not more than one year prior to the date of  
11 sale, by market value appraisals by three licensed real estate brokers  
12 or professionally designated real estate appraisers as defined in RCW  
13 74.46.020 or three independent experts in valuing health care property,  
14 selected by the board of commissioners, and no sale shall take place if  
15 the sale price would be less than ninety percent of the average of such  
16 appraisals.

17       (3) When the board of commissioners of any public hospital district  
18 proposes a sale of district real property pursuant to this section and  
19 the value of the property exceeds one hundred thousand dollars, the  
20 board shall publish a notice of its intention to sell the property.  
21 The notice shall be published at least once each week during two  
22 consecutive weeks in a legal newspaper of general circulation within  
23 the public hospital district. The notice shall describe the property  
24 to be sold and designate the place where and the day and hour when a  
25 hearing will be held. The board shall hold a public hearing upon the  
26 proposal to dispose of the public hospital district property at the  
27 place and the day and hour fixed in the notice and consider evidence  
28 offered for and against the propriety and advisability of the proposed  
29 sale.

30       (4) If in the judgment of the board of commissioners of any  
31 district the sale of any district real property not needed for public  
32 hospital district purposes would be facilitated and greater value  
33 realized through use of the services of licensed real estate brokers,  
34 a contract for such services may be negotiated and concluded. The fee  
35 or commissions charged for any broker service shall not exceed seven  
36 percent of the resulting sale price for a single parcel. No licensed  
37 real estate broker or professionally designated real estate appraisers  
38 as defined in RCW 74.46.020 or independent expert in valuing health

1 care property selected by the board to appraise the market value of a  
2 parcel of property to be sold may be a party to any contract with the  
3 public hospital district to sell such property for a period of three  
4 years after the appraisal.

5 (5) This section is subject to and operates only to the extent its  
6 application is not inconsistent with the operation of section 4 of this  
7 act with respect to property acquired through or under the threat of  
8 condemnation.

9 **Sec. 19.** RCW 79.36.330 and 2004 c 199 s 217 are each amended to  
10 read as follows:

11 In the event the department should determine that the property  
12 interests acquired under the authority of this chapter are no longer  
13 necessary for the purposes for which they were acquired, the department  
14 shall dispose of the same in the following manner, when in the  
15 discretion of the department it is to the best interests of the state  
16 of Washington to do so, except that property purchased with educational  
17 funds or held in trust for educational purposes shall be sold only in  
18 the same manner as are state lands:

19 (1) Where the state property necessitating the acquisition of  
20 private property interests for access purposes under authority of this  
21 chapter is sold or exchanged, the acquired property interests may be  
22 sold or exchanged as an appurtenance of the state property when it is  
23 determined by the department that sale or exchange of the state  
24 property and acquired property interests as one parcel is in the best  
25 interests of the state.

26 (2) If the acquired property interests are not sold or exchanged as  
27 provided in subsection (1) of this section, the department shall notify  
28 the person or persons from whom the property interest was acquired,  
29 stating that the property interests are to be sold, and that the person  
30 or persons shall have the right to purchase the same at the appraised  
31 price. The notice shall be given by registered letter or certified  
32 mail, return receipt requested, mailed to the last known address of the  
33 person or persons. If the address of the person or persons is unknown,  
34 the notice shall be published twice in an official newspaper of general  
35 circulation in the county where the lands or a portion thereof is  
36 located. The second notice shall be published not less than ten nor  
37 more than thirty days after the notice is first published. The person

1 or persons shall have thirty days after receipt of the registered  
2 letter or five days after the last date of publication, as the case may  
3 be, to notify the department, in writing, of their intent to purchase  
4 the offered property interest. The purchaser shall include with his or  
5 her notice of intention to purchase, cash payment, certified check, or  
6 money order in an amount not less than one-third of the appraised  
7 price. No instrument conveying property interests shall issue from the  
8 department until the full price of the property is received by the  
9 department. All costs of publication required under this section shall  
10 be added to the appraised price and collected by the department upon  
11 sale of the property interests.

12 (3) If the property interests are not sold or exchanged as provided  
13 in subsections (1) and (2) of this section, the department shall notify  
14 the owners of land abutting the property interests in the same manner  
15 as provided in subsection (2) of this section and their notice of  
16 intent to purchase shall be given in the manner and in accordance with  
17 the same time limits as are set forth in subsection (2) of this  
18 section. However, if more than one abutting owner gives notice of  
19 intent to purchase the property interests, the department shall  
20 apportion them in relation to the lineal footage bordering each side of  
21 the property interests to be sold, and apportion the costs to the  
22 interested purchasers in relation thereto. Further, no sale is  
23 authorized by this section unless the department is satisfied that the  
24 amounts to be received from the several purchasers will equal or exceed  
25 the appraised price of the entire parcel plus any costs of publishing  
26 notices.

27 (4) If no sale or exchange is consummated as provided in  
28 subsections (1) through (3) of this section, the department shall sell  
29 the properties in the same manner as state lands are sold.

30 (5) Any disposal of property interests authorized by this chapter  
31 shall be subject to any existing rights previously granted by the  
32 department.

33 (6) This section is subject to and operates only to the extent its  
34 application is not inconsistent with the operation of section 4 of this  
35 act with respect to property acquired through or under the threat of  
36 condemnation.

1           **Sec. 20.** RCW 80.28.230 and 1961 c 14 s 80.28.230 are each amended  
2 to read as follows:

3           Any property or interest acquired as provided in RCW 80.28.220  
4 shall be used exclusively for the purposes for which it was acquired:  
5 PROVIDED, HOWEVER, That if any such property be sold or otherwise  
6 disposed of by said corporations, such sale or disposition shall be by  
7 public sale or disposition and advertised in the manner of public sales  
8 in the county where such property is located. This section is subject  
9 to and operates only to the extent its application is not inconsistent  
10 with the operation of section 4 of this act with respect to property  
11 acquired through or under the threat of condemnation.

12           **Sec. 21.** RCW 80.40.030 and 1963 c 201 s 4 are each amended to read  
13 as follows:

14           Any natural gas company having received an order under RCW  
15 80.40.040 shall have the right of eminent domain to be exercised in the  
16 manner provided in and subject to the provisions of chapter 8.20 RCW to  
17 acquire for its use for the underground storage of natural gas any  
18 underground reservoir, as well as such other property or interests in  
19 property as may be required to adequately maintain and utilize the  
20 underground reservoir for the underground storage of natural gas,  
21 including easements and rights of way for access to and egress from the  
22 underground storage reservoir. The right of eminent domain granted  
23 hereby shall apply to property or property interests held in private  
24 ownership, provided condemnor has exercised good faith in negotiations  
25 for private sale or lease. No property shall be taken or damaged until  
26 the compensation to be made therefor shall have been ascertained and  
27 paid. Any property or interest therein so acquired by any natural gas  
28 company shall be used exclusively for the purposes for which it was  
29 acquired. Any decree of appropriation hereunder shall define and limit  
30 the rights condemned and shall provide for the reversion of such rights  
31 to the defendant or defendants or their successors in interest upon  
32 abandonment of the underground storage project. Good faith exploration  
33 work or development work relative to the storage reservoir is  
34 conclusive evidence that its use has not been abandoned. The court may  
35 include in such decree such other relevant conditions, covenants and  
36 restrictions as it may deem fair and equitable. This section is



1 subject to and operates only to the extent its application is not  
2 inconsistent with the operation of section 4 of this act with respect  
3 to property acquired through or under the threat of condemnation.

4 **Sec. 22.** RCW 81.112.080 and 1992 c 101 s 8 are each amended to  
5 read as follows:

6 An authority shall have the following powers in addition to the  
7 general powers granted by this chapter:

8 (1) To carry out the planning processes set forth in RCW  
9 81.104.100;

10 (2) To acquire by purchase, condemnation, gift, or grant and to  
11 lease, construct, add to, improve, replace, repair, maintain, operate,  
12 and regulate the use of high capacity transportation facilities and  
13 properties within authority boundaries including surface, underground,  
14 or overhead railways, tramways, busways, buses, bus sets, entrained and  
15 linked buses, ferries, or other means of local transportation except  
16 taxis, and including escalators, moving sidewalks, personal rapid  
17 transit systems or other people-moving systems, passenger terminal and  
18 parking facilities and properties, and such other facilities and  
19 properties as may be necessary for passenger, vehicular, and vessel  
20 access to and from such people-moving systems, terminal and parking  
21 facilities and properties, together with all lands, rights of way,  
22 property, equipment, and accessories necessary for such high capacity  
23 transportation systems. When developing specifications for high  
24 capacity transportation system operating equipment, an authority shall  
25 take into account efforts to establish or sustain a domestic  
26 manufacturing capacity for such equipment. The right of eminent domain  
27 shall be exercised by an authority in the same manner and by the same  
28 procedure as or may be provided by law for cities of the first class,  
29 except insofar as such laws may be inconsistent with the provisions of  
30 this chapter. Public transportation facilities and properties which  
31 are owned by any city, county, county transportation authority, public  
32 transportation benefit area, or metropolitan municipal corporation may  
33 be acquired or used by an authority only with the consent of the agency  
34 owning such facilities. Such agencies are hereby authorized to convey  
35 or lease such facilities to an authority or to contract for their joint  
36 use on such terms as may be fixed by agreement between the agency and  
37 the authority.

1           The facilities and properties of an authority whose vehicles will  
2 operate primarily within the rights of way of public streets, roads, or  
3 highways, may be acquired, developed, and operated without the corridor  
4 and design hearings that are required by RCW 35.58.273 for mass transit  
5 facilities operating on a separate right of way;

6           (3) To dispose of any real or personal property acquired in  
7 connection with any authority function and that is no longer required  
8 for the purposes of the authority, in the same manner as provided for  
9 cities of the first class. When an authority determines that a  
10 facility or any part thereof that has been acquired from any public  
11 agency without compensation is no longer required for authority  
12 purposes, but is required by the agency from which it was acquired, the  
13 authority shall by resolution transfer it to such agency. This  
14 subsection is subject to and operates only to the extent its  
15 application is not inconsistent with the operation of section 4 of this  
16 act with respect to property acquired through or under the threat of  
17 condemnation;

18           (4) To fix rates, tolls, fares, and charges for the use of such  
19 facilities and to establish various routes and classes of service.  
20 Fares or charges may be adjusted or eliminated for any distinguishable  
21 class of users.

22           NEW SECTION.       **Sec. 23.**       This act applies to condemnation  
23 proceedings commenced on or after the effective date of this act.

--- END ---