\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**ENGROSSED SENATE BILL 6140**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 65th Legislature 2018 Regular Session**

**By** Senators King, Van De Wege, and Sheldon; by request of Department of Natural Resources

AN ACT Relating to promoting the efficient and effective management of state-managed lands; amending RCW 79.125.400, 79.130.020, 79.125.030, 79.11.340, and 79.17.200; adding a new section to chapter 79.10 RCW; creating a new section; and repealing RCW 79.125.020 and 79.125.410.

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

**Sec.**  RCW 79.125.400 and 2005 c 155 s 506 are each amended to read as follows:

(1) ((~~Upon platting and appraisal of first-class tidelands or shorelands as provided in this chapter~~)) Except when the department is re-leasing first-class tidelands or shorelands under subsection (4) of this section, if the department deems it for the best public interest to offer ((~~the~~)) first-class tidelands or shorelands for lease, the department shall notify the owner of record of ((~~uplands~~)) the lands fronting upon the tidelands or shorelands to be offered for lease ((~~if the upland owner is a resident of the state, or the upland owner is a nonresident of the state, shall mail~~)) by mailing to the ((~~upland~~)) land owner's last known post office address, as reflected in the county records, a copy of the notice notifying the owner that the state is offering the tidelands or shorelands for lease, giving a description of those lands ((~~and the department's appraised fair market value of the tidelands or shorelands for lease~~)), and notifying the owner that the ((~~upland~~)) owner has a preference right to apply to lease the tidelands or shorelands ((~~at the appraised value for the lease for~~)). The owner has a period of sixty days from the date of service of mailing of the notice to exercise the preference by applying to lease the tidelands or shorelands.

(2) If at the expiration of sixty days from the service or mailing of the notice, as provided in subsection (1) of this section, there being no conflicting applications filed, and the owner of the ((~~uplands~~)) lands fronting upon the tidelands or shorelands offered for lease, has failed to avail themselves of their preference right to apply to lease ((~~or to pay to the department the appraised value for lease of the tidelands or shorelands described in the notice~~)), the tidelands or shorelands may be offered for lease to any person and may be leased in the manner provided for in the case of lease of state-owned aquatic lands.

(3) If at the expiration of sixty days two or more claimants asserting a preference right to lease have filed applications to lease any tract, conflicting with each other, the conflict between the claimants shall be equitably resolved by the department as the best interests of the state require ((~~in accord with the procedures prescribed by chapter 34.05 RCW~~)). However, any contract purchaser of lands or rights therein, which ((~~upland~~)) land qualifies the owner for a preference right under this section, shall have first priority for the preference right.

(4) At the expiration of any lease of first-class tidelands or shorelands, the lessee or the lessee's successors or assigns has the preference right to re-lease all or part of the area covered by the original lease or any portion of the lease, if the department deems it to be in the best interests of the state to re-lease the area. Such a re-lease must be upon the terms and conditions as may be prescribed by the department. This preference right to re-lease is superior to any preference right given to the land owner fronting the tidelands and shorelands under subsection (1) of this section.

(5) In case the fronting uplands are not improved and occupied for residential purposes and the fronting land owner has not filed an application for the lease of the lands, the department may lease the lands to any person for booming purposes. However, failure to use for booming purposes any lands leased under this section for such purposes for a period of one year shall work a forfeiture of the lease and the land shall revert to the state without any notice to the lessee upon the entry of a declaration of forfeiture in the records of the department.

**Sec.**  RCW 79.130.020 and 2005 c 155 s 602 are each amended to read as follows:

(1) The department shall, prior to the issuance of any lease under the provisions of this chapter, fix the annual ((~~rental~~)) rent and prescribe the terms and conditions of the lease. However, in fixing the ((~~rental~~)) rent, the department shall not take into account the value of any improvements placed upon the lands by the lessee.

(2) No lease issued under the provisions of this chapter shall be for a term longer than thirty years ((~~from the date thereof if in front of second-class tidelands or shorelands; or a term longer than ten years if in front of unplatted first-class tidelands or shorelands leased under the provisions of RCW 79.125.410, in which case the lease shall be subject to the same terms and conditions as provided for in the lease of the unplatted first-class tidelands or shorelands~~)). Failure to use those beds leased under the provisions of this chapter for booming purposes, for a period of two years shall work a forfeiture of the lease and the land shall revert to the state without notice to the lessee upon the entry of a declaration of forfeiture in the records of the department.

**Sec.**  RCW 79.125.030 and 2005 c 155 s 502 are each amended to read as follows:

The department may survey and plat any ((~~second-class~~)) tidelands and shorelands not previously platted.

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

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

(2) When the department determines to sell the lands, they ((~~shall initially be~~)) must be either: (a) Offered for sale ((~~either~~)) at public auction ((~~or direct sale to public agencies~~)) as provided in this chapter((~~.~~

~~(3) If the lands are not sold at public auction, the department may,~~)); (b) offered for direct sale to public agencies as provided in RCW 79.17.200; or (c) with approval of the board, ((~~market the lands~~)) marketed through persons licensed under chapter 18.85 RCW or through other commercially feasible means at a price not lower than the land's appraised value.

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

((~~(5)~~)) (4) Proceeds of the sale shall be deposited into the appropriate fund in the state treasury unless the grantor in any deed or the testator in case of a devise specifies that the proceeds of the sale be devoted to a particular purpose.

**Sec.**  RCW 79.17.200 and 1992 c 167 s 2 are each amended to read as follows:

(1) For the purposes of this section, "public agency" means any agency, political subdivision, or unit of local government of this state including, but not limited to, municipal corporations, quasi-municipal corporations, special purpose districts, and local service districts; any agency of the state government; any agency of the United States; and any Indian tribe recognized as such by the federal government.

(2) With the approval of the board of natural resources, the department of natural resources may directly transfer or dispose of real property, without public auction, in the following circumstances:

(a) Transfers in lieu of condemnations;

(b) Transfers to public agencies; ((~~and~~))

(c) Transfers to resolve trespass and property ownership disputes; and

(d) Transfers of real property to a lessee that has continuously leased the real property directly from the department of natural resources for purposes of a home site since prior to the effective date of this section. This subsection (2)(d) does not apply to aquatic lands as defined by RCW 79.105.060, or to lessees that do not hold a lease for the real property directly with the department of natural resources.

(3) Real property to be transferred or disposed of under this section shall be transferred or disposed of only after appraisal and for at least fair market value, and only if such transaction is in the best interest of the state or affected trust.

NEW SECTION. **Sec.**  A new section is added to chapter 79.10 RCW under the subchapter heading "general provisions" to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the department must evaluate the department's lands portfolio and revenue streams, management practices, and transaction processes, and develop options and recommendations designed to ensure the state's fiduciary duty is being met and increase the amount and stability of revenue from state lands and state forestland over time. The evaluation must seek to account for the volatility of forest product markets and consider ways to mitigate the impact of market downturns on its revenues.

(a) The evaluation must specifically include an analysis of options that would leverage the earning potential for high value, low performing portions of state lands, with suggested legislative recommendations to enhance revenue generation from these types of lands, including transitioning lower performing assets to higher revenue production.

(b) The evaluation must develop alternatives and recommendations relating to fully addressing the existing arrearage volume, including annual updates to the appropriate committees of the legislature on specific progress towards meeting, and the updated timeline to fully address, this shortfall within the ten-year time frame identified by the board of natural resources in November 2017.

(c) The evaluation must evaluate and develop alternatives and recommendations relating to calculating and addressing arrearage, with a particular focus on ensuring the stability of revenue from state lands and state trust lands over time.

(d) The evaluation must include an assessment of factors that restrict the department from prudent management and revenue production.

(e) Regarding state forestlands, the evaluation must specifically include an analysis of options and recommendations for:

(i) The creation of a unitary trust for the revenue derived from state forestlands. The evaluation must include methods for allocating disbursements to the benefiting counties, and include consultation with the affected counties and their association;

(ii) Any alternative management focus, such as returning the lands to the counties for their management, leasing the lands to private timber investment management organizations, and transition of lands into higher revenue producing assets; and

(iii) Any other options for legislative consideration.

(2) The department must develop methods or tools to estimate the current asset value of state lands and state forestlands, as defined in RCW 79.02.010. The methods should be designed to be as accurate and resource efficient as possible and be designed to allow repeated estimates over time. The methods must allow for the segregation of different asset classes, and at a minimum allow for the tracking values over time for the following: Forestland, irrigated agricultural land, nonirrigated agricultural land, and commercial real estate land. The department may recommend other asset classes to track in addition to those listed.

(3) The department may utilize the services of a contractor for any portion of the evaluation, analysis, and tool and method development required by this section.

(4) The department must provide a final report to the appropriate committees of the senate and house of representatives by June 30, 2020, that includes the evaluation, analysis, and tools and methods required by this section. The department must provide progress reports by December 1, 2018, and December 1, 2019.

NEW SECTION. **Sec.**  (1) Within existing appropriations, the department of natural resources must prepare an evaluation of leases and easements of state-owned aquatic lands for industrial and commercial uses in existence on January 1, 2018, except leases for purposes of marinas and moorage. The evaluation must include:

(a) A summary of each lease and easement, including lease term, rental rate, and use conditions;

(b) A listing of annual revenues obtained from each lease and easement;

(c) A summary of the methods or formula used to value and establish payment for each type of lease and easement;

(d) A summary description of inspection and monitoring efforts completed over the previous ten years relating to compliance with the terms of the lease or easement as well as compliance with all applicable water quality and other local, state, or federal environmental, public health, and safety standards;

(e) A summary description of the applicable requirements for inspection and monitoring under the terms of the leases and easements as well as other applicable local, state, and federal regulatory requirements;

(f) A summary description of the lease and easement compliance activities performed by the department to ensure the protection of the state's aquatic resources, consistent with RCW 79.105.010, is maintained.

(2) The department of natural resources must submit the evaluation, including any recommendations for legislative or administrative actions, to the appropriate policy and fiscal committees of the senate and house of representatives by December 1, 2018.

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1)RCW 79.125.020 (First-class tidelands and shorelands to be platted) and 2005 c 155 s 501 & 1982 1st ex.s. c 21 s 87; and

(2)RCW 79.125.410 (First-class unplatted tidelands and shorelands—Lease preference right to upland owners—Lease for booming purposes) and 2005 c 155 s 527 & 1982 1st ex.s. c 21 s 113.

**--- END ---**