

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2329

Chapter 166, Laws of 2012

62nd Legislature
2012 Regular Session

STATE FOREST LANDS--REPLACEMENT

EFFECTIVE DATE: 06/07/12

Passed by the House March 5, 2012
Yeas 98 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate February 24, 2012
Yeas 45 Nays 3

BRAD OWEN

President of the Senate

Approved March 29, 2012, 6:31 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2329** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

March 29, 2012

**Secretary of State
State of Washington**

HOUSE BILL 2329

AS AMENDED BY THE SENATE

Passed Legislature - 2012 Regular Session

State of Washington 62nd Legislature 2012 Regular Session

By Representatives Takko, Orcutt, Blake, Chandler, Stanford, Taylor,
and Van De Wege; by request of Commissioner of Public Lands

Read first time 01/11/12. Referred to Committee on Agriculture &
Natural Resources.

1 AN ACT Relating to replacing encumbered state forest lands for the
2 benefit of multiple participating counties; amending RCW 79.02.010,
3 79.64.100, 79.64.110, and 79.22.060; reenacting and amending RCW
4 43.30.385; adding new sections to chapter 79.22 RCW; and creating a new
5 section.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds:

8 (a) Compliance with the federal endangered species act on state
9 forest lands within small, timber-dependent counties in southwest
10 Washington is disproportionately burdensome when compared to the total
11 budget in these counties;

12 (b) When compared to other forested parts of the state, there is a
13 relatively small federal land base in these counties, which has
14 resulted in substantial responsibility for endangered species act-
15 related habitat conservation being borne by state forest lands;

16 (c) Within these counties, there is limited availability of private
17 working forest land available for use as a replacement for encumbered
18 state forest lands;

1 (d) Currently, county beneficiaries may not receive revenue derived
2 from state forest lands located in any counties other than their own;

3 (e) Through the passing of chapter 354, Laws of 2009, the
4 legislature established the need to relieve the impact of long-term
5 endangered species-related encumbrances on state forest lands in small,
6 timber-dependent counties in Washington;

7 (f) As a result of the implementation of chapter 354, Laws of 2009,
8 replacement lands are to be purchased to maintain the land base and
9 productivity of state forest lands in these counties;

10 (g) There is a need for timely reinvestment in the land base of
11 state forest lands by replacing those transferred encumbered lands with
12 new, productive, unencumbered forest land;

13 (h) The maintenance of a productive state forest land base in these
14 counties is vital to maintaining a stable, viable natural resource
15 economy that supports rural communities and creates local natural
16 resource-based jobs; and

17 (i) These counties have articulated the need to reestablish
18 sustainable long-term revenue from state forest lands through the
19 acquisition of productive timber land beyond what will be funded by the
20 land value of transferred encumbered lands under chapter 354, Laws of
21 2009.

22 (2) It is the intent of the legislature to authorize the board of
23 natural resources to establish a state forest land pool for small,
24 timber-dependent southwest Washington counties. This action allows the
25 board of natural resources, if deemed appropriate after a required
26 analysis, to use revenue designated for replacement of encumbered state
27 forest land in one county to be pooled with other counties' land
28 replacement funds to purchase forest land within any of the
29 participating counties. This forest land would be managed as state
30 forest land for the benefit of all counties participating in the pool,
31 proportionate to their contribution of asset value to the land pool,
32 according to a set of policy, administrative, and financial structures
33 developed by the department of natural resources and adopted by the
34 board of natural resources.

35 (3) It is the further intent of the legislature that the
36 replacement forest lands purchased to be part of the land pool are to
37 be maintained as working forest lands. For purposes of the land pool,
38 the department of natural resources should seek out land threatened by

1 encroaching development and land not likely to become further
2 encumbered in an effort to preserve working forest land to the maximum
3 extent possible.

4 **Sec. 2.** RCW 79.02.010 and 2011 c 216 s 17 are each amended to read
5 as follows:

6 The definitions in this section apply throughout this title unless
7 the context clearly requires otherwise.

8 (1) "Aquatic lands" means all state-owned tidelands, shorelands,
9 harbor areas, and the beds of navigable waters as defined in RCW
10 79.105.060 that are administered by the department.

11 (2) "Board" means the board of natural resources.

12 (3) "Commissioner" means the commissioner of public lands.

13 (4) "Community and technical college forest reserve lands" means
14 lands managed under RCW 79.02.420.

15 (5) "Community forest trust lands" means those lands acquired and
16 managed under the provisions of chapter 79.155 RCW.

17 (6) "Department" means the department of natural resources.

18 (7)(a) "Forest biomass" means the by-products of: Current forest
19 management activities; current forest protection treatments prescribed
20 or permitted under chapter 76.04 RCW; or the by-products of forest
21 health treatment prescribed or permitted under chapter 76.06 RCW.

22 (b) "Forest biomass" does not include wood pieces that have been
23 treated with chemical preservatives such as: Creosote,
24 pentachlorophenol, or copper-chrome-arsenic; wood from existing old
25 growth forests; wood required to be left on-site under chapter 76.09
26 RCW, the state forest practices act; and implementing rules, and other
27 legal and contractual requirements; or municipal solid waste.

28 (8) "Improvements" means anything considered a fixture in law
29 placed upon or attached to lands administered by the department that
30 has changed the value of the lands or any changes in the previous
31 condition of the fixtures that changes the value of the lands.

32 (9) "Land bank lands" means lands acquired under RCW 79.19.020.

33 (10) "Person" means an individual, partnership, corporation,
34 association, organization, cooperative, public or municipal
35 corporation, or agency of a federal, state, or local governmental unit,
36 however designated.

1 (11) "Public lands" means lands of the state of Washington
2 administered by the department including but not limited to state
3 lands, state forest lands, lands included in a state forest land pool,
4 and aquatic lands.

5 (12) "State forest lands" means lands acquired under RCW 79.22.010,
6 79.22.040, and 79.22.020.

7 (13) "State lands" includes:

8 (a) School lands, that is, lands held in trust for the support of
9 the common schools;

10 (b) University lands, that is, lands held in trust for university
11 purposes;

12 (c) Agricultural college lands, that is, lands held in trust for
13 the use and support of agricultural colleges;

14 (d) Scientific school lands, that is, lands held in trust for the
15 establishment and maintenance of a scientific school;

16 (e) Normal school lands, that is, lands held in trust for state
17 normal schools;

18 (f) Capitol building lands, that is, lands held in trust for the
19 purpose of erecting public buildings at the state capital for
20 legislative, executive, and judicial purposes;

21 (g) Institutional lands, that is, lands held in trust for state
22 charitable, educational, penal, and reformatory institutions; and

23 (h) Land bank, escheat, donations, and all other lands, except
24 aquatic lands, administered by the department that are not devoted to
25 or reserved for a particular use by law.

26 (14) "Valuable materials" means any product or material on the
27 lands, such as forest products, forage or agricultural crops, stone,
28 gravel, sand, peat, and all other materials of value except: (a)
29 Mineral, coal, petroleum, and gas as provided for under chapter 79.14
30 RCW; and (b) forest biomass as provided for under chapter 79.150 RCW.

31 (15) "State forest land pool" or "land pool" means state forest
32 lands acquired and managed under section 3 of this act.

33 NEW SECTION. Sec. 3. A new section is added to chapter 79.22 RCW
34 under the subchapter heading "Part 1 General Provisions" to read as
35 follows:

36 (1) The board may create a state forest land pool, to be managed in
37 accordance with this section, if the board determines that creation of

1 a land pool is in the best interest of the state or affected trust,
2 based on an analysis prepared by the department under section 4 of this
3 act. The land pool may not contain more than ten thousand acres of
4 state forest land at any one time.

5 (2) A county is eligible to participate in a land pool if the board
6 determines it:

7 (a) Has a population of twenty-five thousand or less; and

8 (b) Has existing state forest lands encumbered with timber harvest
9 deferrals, associated with wildlife species listed under the federal
10 endangered species act, more than thirty years in length.

11 (3) All lands in the land pool are state forest lands and must be
12 managed in the same manner and with the same responsibilities as other
13 state forest lands. Proceeds from the state forest land pool must,
14 except as provided in RCW 79.64.110, be distributed under RCW 79.22.010
15 and 79.22.040.

16 (4)(a) A county may participate in the land pool only if it is
17 eligible, as determined under subsection (2) of this section, and the
18 board receives a written request to do so by the legislative authority
19 of that county.

20 (b) The board shall end any further participation of a county in
21 the land pool if it receives a written request to do so by the
22 legislative authority of that county. If the board receives such a
23 request, that county's interest in the land pool as a beneficiary
24 remains, but no new contributions of asset value may be made to the
25 land pool on behalf of the county and no new lands may be purchased in
26 that county for the land pool.

27 (5)(a) If a land pool is created by the board, the department and
28 the participating counties must develop a funding strategy for
29 acquiring land to include in the land pool.

30 (b) The department and participating counties may pursue funding
31 for the transfer of state forest land encumbered by long-term wildlife-
32 related harvest deferrals within the participating counties into status
33 as a natural resources conservation area under chapter 79.71 RCW, and
34 use the value of the transferred land to acquire working forest lands
35 to include in the land pool.

36 (c) The department and participating counties may pursue other land
37 acquisition funding strategies.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 79.22 RCW
2 under the subchapter heading "Part 1 General Provisions" to read as
3 follows:

4 (1) Upon the request of the board in its consideration of creating
5 a state forest land pool under section 3 of this act, the department
6 must conduct an analysis that includes, at a minimum, the following
7 elements:

8 (a) An evaluation of how the proposed land pool would benefit the
9 requesting counties, including revenue predictability and long-term
10 revenue projections;

11 (b) The development and proposal of a set of policy,
12 administrative, and financial structures necessary for the department
13 to establish the land pool, including a method to determine the
14 percentage of revenue to be distributed to each county participating in
15 the land pool that is based on each county's proportionate contribution
16 of asset value to the land pool;

17 (c) An estimation of the administrative costs of creating and
18 maintaining the land pool; and

19 (d) Any additional information requested by the board.

20 (2) The department may coordinate its analysis with affected
21 counties or an association representing the affected counties.

22 **Sec. 5.** RCW 79.64.100 and 2003 c 334 s 219 are each amended to
23 read as follows:

24 (1) There is created a forest development account in the state
25 treasury. The state treasurer shall keep an account of all sums
26 deposited ~~((therein and))~~, expended, or withdrawn ~~((therefrom))~~ from
27 the account.

28 (2)(a) Any sums placed in the forest development account shall be
29 pledged for the purpose of:

30 (i) Paying interest and principal on the bonds issued by the
31 department under RCW 79.22.080 and 79.22.090 and the provisions of this
32 chapter~~((τ))~~; and

33 ~~((for))~~ (ii) The purchase of land for growing timber.

34 (b) Any bonds issued shall constitute a first and prior claim and
35 lien against the account for the payment of principal and interest.

36 (3) No sums for the ~~((above))~~ purposes identified in subsection (2)

1 of this section shall be withdrawn or paid out of the account except
2 upon approval of the department.

3 (4) Appropriations may be made by the legislature from the forest
4 development account to the department for the purpose of:

5 (a) Carrying on the activities of the department on state forest
6 lands((~~τ~~));

7 (b) Establishing a state forest land pool under section 3 of this
8 act and carrying on the activities of the department on lands included
9 in the land pool;

10 (c) Carrying on the activities of the department on lands managed
11 on a sustained yield basis as provided for in RCW 79.10.320((~~τ~~)); and

12 ((~~for~~)) (d) Reimbursement of expenditures that have been made or
13 may be made from the resource management cost account created in RCW
14 79.64.020 in the management of state forest lands.

15 **Sec. 6.** RCW 79.64.110 and 2009 c 354 s 8 are each amended to read
16 as follows:

17 (1) Any moneys derived from the lease of state forest lands or from
18 the sale of valuable materials, oils, gases, coal, minerals, or fossils
19 from those lands, or the appraised value of these resources when
20 transferred to a public agency under RCW 79.22.060, except as provided
21 in RCW 79.22.060(4), must be distributed as follows:

22 ((~~1~~)) (a) For state forest lands acquired through RCW 79.22.040
23 or by exchange for lands acquired through RCW 79.22.040:

24 ((~~a~~)) (i) The expense incurred by the state for administration,
25 reforestation, and protection, not to exceed twenty-five percent, which
26 rate of percentage shall be determined by the board, must be returned
27 to the forest development account created in ((~~the state general fund~~))
28 RCW 79.64.100.

29 ((~~b~~)) (ii) Any balance remaining must be paid to the county in
30 which the land is located or, for counties participating in a land pool
31 created under section 3 of this act, to each participating county
32 proportionate to its contribution of asset value to the land pool as
33 determined by the board. Payments made under this subsection are to be
34 paid, distributed, and prorated, except as otherwise provided in this
35 section, to the various funds in the same manner as general taxes are
36 paid and distributed during the year of payment.

1 (~~(e)~~) (iii) Any balance remaining, paid to a county with a
2 population of less than sixteen thousand, must first be applied to the
3 reduction of any indebtedness existing in the current expense fund of
4 the county during the year of payment.

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

11 (~~(2)~~) (b) For state forest lands acquired through RCW 79.22.010
12 or by exchange for lands acquired through RCW 79.22.010, except as
13 provided in RCW 79.64.120:

14 (~~(a)~~) (i) Fifty percent shall be placed in the forest development
15 account.

16 (~~(b)~~) (ii) Fifty percent shall be prorated and distributed to the
17 state general fund, to be dedicated for the benefit of the public
18 schools, (~~and~~) to the county in which the land is located or, for
19 counties participating in a land pool created under section 3 of this
20 act, to each participating county proportionate to its contribution of
21 asset value to the land pool as determined by the board, and according
22 to the relative proportions of tax levies of all taxing districts in
23 the county. The portion to be distributed to the state general fund
24 shall be based on the regular school levy rate under RCW 84.52.065 and
25 the levy rate for any maintenance and operation special school levies.
26 With regard to the portion to be distributed to the counties, the
27 department shall certify to the state treasurer the amounts to be
28 distributed within seven working days of receipt of the money. The
29 state treasurer shall distribute funds to the counties four times per
30 month, with no more than ten days between each payment date. The money
31 distributed to the county must be paid, distributed, and prorated to
32 the various other funds in the same manner as general taxes are paid
33 and distributed during the year of payment.

34 (~~(3)~~) (2) A school district may transfer amounts deposited in its
35 debt service fund pursuant to this section into its capital projects
36 fund as authorized in RCW 28A.320.330.

1 **Sec. 7.** RCW 79.22.060 and 2009 c 354 s 7 are each amended to read
2 as follows:

3 (1) With the approval of the board, the department may directly
4 transfer or dispose of state forest lands without public auction, if
5 the lands:

6 (a) Consist of ten contiguous acres or less;

7 (b) Have a value of twenty-five thousand dollars or less; or

8 (c) Are located in a county with a population of twenty-five
9 thousand or less and are encumbered with timber harvest deferrals,
10 associated with wildlife species listed under the federal endangered
11 species act, greater than thirty years in length.

12 (2) Disposal under this section may only occur in the following
13 circumstances:

14 (a) Transfers in lieu of condemnation;

15 (b) Transfers to resolve trespass and property ownership disputes;
16 or

17 (c) In counties with a population of twenty-five thousand or less,
18 transfers to public agencies.

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

28 (4)(a) Except as provided in (b) of this subsection, the proceeds
29 from real property transferred or disposed of under this section shall
30 be deposited into the park land trust revolving fund and be solely used
31 to buy replacement land within the same county as the property
32 transferred or disposed.

33 (b) The proceeds from real property transferred or disposed of
34 under subsections (1)(c) and (2)(c) of this section for the purpose of
35 participating in the state forest land pool created under section 3 of
36 this act must be deposited into the park land trust revolving fund and
37 used to buy replacement forest land for the benefit of that county as

1 provided in RCW 79.64.110 and located within any county participating
2 in the land pool.

3 (c) Except as otherwise provided in this subsection, in counties
4 with a population of twenty-five thousand or less, the portion of the
5 proceeds associated with valuable materials on ((the—transferred))
6 state forest land transferred under subsections (1)(c) and (2)(c) of
7 this section must be distributed as provided in RCW 79.64.110. If
8 requested in writing by the legislative authority of a county
9 participating in the state forest land pool created under section 3 of
10 this act, the portion of the proceeds associated with valuable
11 materials on state forest land transferred under subsections (1)(c) and
12 (2)(c) of this section must be deposited in the park land trust
13 revolving fund and used to buy replacement forest land for the benefit
14 of that county as provided in RCW 79.64.110 and located within any
15 county participating in the land pool.

16 **Sec. 8.** RCW 43.30.385 and 2011 c 320 s 21 and 2011 c 216 s 14 are
17 each reenacted and amended to read as follows:

18 (1) The park land trust revolving fund is to be utilized by the
19 department for the purpose of acquiring real property, including all
20 reasonable costs associated with these acquisitions, as a replacement
21 for the property transferred to the state parks and recreation
22 commission, as directed by the legislature in order to maintain the
23 land base of the affected trusts or under RCW 79.22.060 and to receive
24 voluntary contributions for the purpose of operating and maintaining
25 public use and recreation facilities, including trails, managed by the
26 department.

27 (2) In addition to the other purposes identified in this section,
28 the park land trust revolving fund may be utilized by the department to
29 hold funding for future acquisition of lands for the community forest
30 trust program from willing sellers under RCW 79.155.040.

31 (3)(a) Proceeds from transfers of real property to the state parks
32 and recreation commission or other proceeds identified from transfers
33 of real property as directed by the legislature shall be deposited in
34 the park land trust revolving fund.

35 (b) Except as otherwise provided in this subsection, the proceeds
36 from real property transferred or disposed under RCW 79.22.060 must be
37 used solely to purchase replacement forest land, that must be actively

1 managed as a working forest, within the same county as the property
2 transferred or disposed. If the real property was transferred under
3 RCW 79.22.060 (1)(c) and (2)(c) from within a county participating in
4 the state forest land pool created under section 3 of this act,
5 replacement forest land may be located within any county participating
6 in the land pool.

7 (c) Disbursement from the park land trust revolving fund to acquire
8 replacement property and for operating and maintaining public use and
9 recreation facilities shall be on the authorization of the department.

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

14 (4) In order to maintain an effective expenditure and revenue
15 control, the park land trust revolving fund is subject in all respects
16 to chapter 43.88 RCW, but no appropriation is required to permit
17 expenditures and payment of obligations from the fund.

18 (5) The department is authorized to solicit and receive voluntary
19 contributions for the purpose of operating and maintaining public use
20 and recreation facilities, including trails, managed by the department.
21 The department may seek voluntary contributions from individuals and
22 organizations for this purpose. Voluntary contributions will be
23 deposited into the park land trust revolving fund and used solely for
24 the purpose of public use and recreation facilities operations and
25 maintenance. Voluntary contributions are not considered a fee for use
26 of these facilities.

Passed by the House March 5, 2012.

Passed by the Senate February 24, 2012.

Approved by the Governor March 29, 2012.

Filed in Office of Secretary of State March 29, 2012.