
SENATE BILL 5730

State of Washington 64th Legislature 2015 Regular Session

By Senators Pearson, Chase, Roach, Hewitt, Sheldon, and Warnick

Read first time 01/30/15. Referred to Committee on Natural Resources & Parks.

1 AN ACT Relating to access roads utilized by the department of
2 natural resources; amending RCW 79.38.010, 79.38.020, 79.38.050,
3 79.38.060, and 79.38.070; and adding a new section to chapter 79.38
4 RCW.

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

6 **Sec. 1.** RCW 79.38.010 and 2004 c 199 s 221 are each amended to
7 read as follows:

8 (1) In addition to any authority otherwise granted by law, the
9 department shall have the authority to acquire lands, interests in
10 lands, and other property for the purpose of affording access by road
11 to public lands from any public highway.

12 (2)(a) When the department has acquired an easement or other
13 interest in lands, as authorized under subsection (1) of this
14 section, the department has an affirmative and ongoing duty to ensure
15 that it maintains compliance with any road maintenance or repair
16 requirements included in the easement or other applicable agreement.
17 In order to ensure compliance with such a requirement, the department
18 must take actions to include monitoring the impacts of road use by
19 purchasers of valuable materials and ensure the completion of
20 necessary maintenance or repairs in a timely manner.

1 (b) The department may carry out the requirements of (a) of this
2 subsection using any appropriate fund source or other resources, such
3 as valuable material purchase contracts. However, if the department
4 deems that it cannot carry out the requirements using other fund
5 sources or resources, the department must utilize appropriations from
6 the access road account established in RCW 79.38.050.

7 **Sec. 2.** RCW 79.38.020 and 2004 c 199 s 222 are each amended to
8 read as follows:

9 (1) To facilitate the carrying out of the purpose of this
10 chapter, the department may:

11 ((+1)) (a) Grant easements, rights-of-way, and permits to cross
12 public lands to any person in exchange for similar rights over lands
13 not under its jurisdiction;

14 ((+2)) (b) Enter into agreements with any person or agency
15 relating to purchase, construction, reconstruction, maintenance,
16 repair, regulation, and use of access roads or public roads used to
17 provide access to public lands;

18 ((+3)) (c) Dispose, by sale, exchange, or otherwise, of any
19 interest in an access road in the event it determines such interest
20 is no longer necessary for the purposes of this chapter.

21 (2)(a) When a public agency, as defined in RCW 79.17.200,
22 acquires property that benefits from an easement allowing the use of
23 a department road for commercial purposes, such as timber or gravel
24 hauling, and the public agency intends to use the road for
25 noncommercial purposes, it may communicate that intent to the
26 department in writing.

27 (b) In such circumstances, the department shall, in a manner
28 consistent with the best interest of the state or affected trust, use
29 best efforts to either: (i) Modify the easement to reflect the public
30 agency's intended use of the road; or (ii) sell adjacent public lands
31 to the public agency, consistent with RCW 79.17.200, to provide the
32 public agency an alternative means of access to the property.

33 NEW SECTION. **Sec. 3.** A new section is added to chapter 79.38
34 RCW to read as follows:

35 Prior to abandoning or otherwise closing a road, the department
36 must provide reasonable alternative access to private property where
37 the owner or owners of that property have relied on that road for
38 access to that property for at least twenty-five consecutive years.

1 **Sec. 4.** RCW 79.38.050 and 2004 c 199 s 224 are each amended to
2 read as follows:

3 ~~(1) The ((department shall create, maintain, and administer a~~
4 ~~revolving fund, to be known as the)) access road ((revolving fund in~~
5 ~~which shall be deposited)) account is created in the state treasury.~~
6 The department must deposit all moneys received ~~((by it))~~ from users
7 of access roads as payment for costs incurred or to be incurred in
8 maintaining, repairing, and reconstructing access roads, or public
9 roads used to provide access to public lands. ~~((The department may~~
10 ~~use moneys in the fund for the purposes for which they were obtained~~
11 ~~without appropriation by the legislature.)) Expenditures from the~~
12 account may be used only for maintaining, repairing, and
13 reconstructing access roads or public roads used to provide access to
14 public lands. Moneys in the account may be spent only after
15 appropriation.

16 (2) In developing budget requests under chapter 43.88 RCW, the
17 department must seek to ensure the availability of sufficient
18 resources to comply with the requirements identified under RCW
19 79.38.010(2).

20 **Sec. 5.** RCW 79.38.060 and 2004 c 199 s 225 are each amended to
21 read as follows:

22 All moneys received by the department from users of access roads
23 that are not deposited in the access road ~~((revolving fund))~~ account
24 shall be paid as follows:

25 (1) To reimburse the state fund or account from which
26 expenditures have been made for the acquisition, construction, or
27 improvement of the access road or public road, and upon full
28 reimbursement, then

29 (2) To the funds or accounts for which the public lands, to which
30 access is provided, are pledged by law or constitutional provision,
31 in which case the department shall make an equitable apportionment
32 between funds and accounts so that no fund or account shall benefit
33 at the expense of another.

34 **Sec. 6.** RCW 79.38.070 and 2003 c 334 s 224 are each amended to
35 read as follows:

36 The department may enter into agreements with the county to:

37 (1) Identify public roads used to provide access to state forest
38 lands in need of improvement;

1 (2) Establish a time schedule for the improvements;

2 (3) Advance payments to the county to fund the road improvements.
3 However, no more than fifty percent of the moneys appropriated from
4 the access road (~~((revolving fund))~~) account shall be eligible for use
5 as advance payments to counties(~~((The department shall assess the~~
6 ~~fund on January 1st and July 1st of each year to determine the amount~~
7 ~~that may be used as advance payments to counties for road~~
8 ~~improvements))~~); and

9 (4) Determine the equitable distribution, if any, of costs of
10 such improvements between the county and the state through
11 negotiation of terms and conditions of any resulting repayment to the
12 fund or funds financing the improvements.

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