

FINAL BILL REPORT

ESHB 2990

Synopsis as Enacted

C 185 L 92

Brief Description: Modifying limitations and restrictions relating to purchase of state trust lands for park and outdoor recreation purposes.

By House Committee on Natural Resources & Parks
(originally sponsored by Representatives H. Sommers, Brumsickle, Belcher, Beck, Sheldon and Rasmussen).

House Committee on Natural Resources & Parks

Background:

The Diamond Point trust property on the Miller Peninsula is the subject of litigation involving a proposed land exchange. The history of the litigation is described as follows.

Study of Trust Lands Suitable for Transfer to State Parks:
In 1985, the Legislature directed the Department of Natural Resources (DNR) and State Parks and Recreation Commission (State Parks) to conduct a comprehensive study of state trust lands to identify those suitable for addition to the state parks system. The agencies were directed to recommend to the 1987 Legislature a list of trust land parcels to be added to the parks system.

Through a process developed by DNR and State Parks, approximately 2,000 sites were identified initially. This list was subsequently reduced through further analysis, site visits, and public review, to a final list of 22 sites totaling 6,627 acres. Among these sites was the Diamond Point parcel.

In the final report issued by DNR and State Parks, each of the 22 properties is briefly described and accompanied by a topographical map showing the location and boundaries of the property. The Diamond Point site contains 1,444 acres with access to more than two miles of publicly-owned tidelands on the Strait of Juan de Fuca. The waterfront is high bank in excess of 200 feet in most places.

The configuration of the Diamond Point parcel is an inverted U. The base of the U secures a land base suitable for park purposes adjacent to the saltwater waterfront. The legs of

the U both allow access to the waterfront property from county roads.

Legislative Authorization to Acquire the Trust Lands for Park Purposes: Legislation enacted in 1987 and 1988 directed the Board of Natural Resources and State Parks to negotiate the sale to State Parks of the 22 parcels identified in the 1985 study.

Subsequent to this, DNR and State Parks entered into a real estate contract in 1989 for the purchase of the 22 sites. The acquisition is funded from the Trust Land Purchase Account which receives all monies generated from park concessions and user fees. In recent years, this account has been increasingly used to fund park operations. A proviso in the 1991-93 operating budget specifies that the current appropriation from this account may be used only for costs associated with administration, maintenance, and operations of state parks and parks programs.

Proposed Park Boundary Adjustment Negotiated by State Parks and Peninsula Partners: In 1988, the Department of Trade and Economic Development began working with Mitsubishi Corporation (now Peninsula Partners) on development of tourist facilities in rural Washington. After a statewide search, part of the DNR property on Diamond Point identified for transfer to State Parks was identified as suitable for a major resort. State Parks and Peninsula Partners entered into negotiations to determine what would be needed to develop the resort and a state park. Those negotiations resulted in State Parks releasing a proposal on December 7, 1990.

Under the proposal, State Parks will forego the opportunity to acquire 645 acres from DNR on the eastern side of the parcel. In return, Peninsula Partners will donate to State Parks 120 acres of private land adjacent to the proposed park. They will also construct an access road to the park, provide all utility connections to the park, and give State Parks \$1 million for park development.

1991-93 Capital Budget Appropriations for State Parks: The 1991-93 Capital Budget appropriated \$50 million from the state building and construction account to State Parks for acquisition of trust lands previously identified as appropriate for transfer to State Parks. The Diamond Point trust parcel is among the 14 parcels listed. The appropriation specifies that it is the intent of the Legislature that the full parcels listed in the section be acquired; however, the boundaries of the Diamond Point property may vary from the boundaries of the parcel

identified in the 1985 joint study, to the extent authorized by State Parks.

Legal Challenges to Diamond Point Land Exchanges: Following the action by State Parks in December 1990, which endorsed the Diamond Point land exchange, opponents of the exchange filed suit in superior court challenging the authority of State Parks and DNR to enter into the agreements with Peninsula Partners. The suit contended that the action of the state agencies was a violation of legislative intent, the State Environmental Policy Act, and due process. In April 1991, the court ruled in favor of the state agencies.

The opponents petitioned the Washington Supreme Court for direct review of the superior court decision. In September 1991, a motion to dismiss the appeal was rejected by the court on the grounds that the budget proviso did not amend the State Parks statute requiring the acquisition of the Diamond Point property. In February 1992, the Supreme Court refused the petition for direct review and transferred the case to the Court of Appeals. The Court of Appeals is expected to hear the case in 1993.

Summary: Nothing in the chapter creating the State Parks and Recreation Commission and its powers and duties restricts or modifies the Department of Natural Resources' management, control, or use of lands and timber identified for transfer to State Parks until the date the land and timber are paid for and transferred to State Parks.

The acreage and boundaries of the Diamond Point trust property acquired by State Parks may vary from the acreage and boundaries described in the 1985 joint study.

State Parks may not authorize acquisition of any portion of the Diamond Point trust property by a private party prior to the approval, by the Clallam County Board of Commissioners, of a Preliminary Master Site Plan for a resort development on the property.

Votes on Final Passage:

House	85	10
Senate	39	9

Effective: April 1, 1992