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**SENATE BILL 5820**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senators King and Benton

AN ACT Relating to department of transportation surplus property; amending RCW 47.12.283, 43.17.400, and 47.12.063; reenacting and amending RCW 43.84.092 and 43.84.092; adding a new section to chapter 47.12 RCW; providing a contingent effective date; and providing a contingent expiration date.

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

**Sec.**  RCW 47.12.283 and 2010 c 8 s 10006 are each amended to read as follows:

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

(2) Whenever the department determines to sell real property under its jurisdiction at public auction, the department shall first give notice thereof by ((~~publication on the same day of the week for two consecutive weeks, with the first publication at least two weeks prior to the date of the auction, in a legal newspaper of general circulationin the area where the property to be sold is located. The notice shall be placed in both the legal notices section and the real estate classified section of the newspaper~~)) the most appropriate method as determined by the department. The notice shall contain a description of the property, the time and place of the auction, and the terms of the sale. The sale may be for cash or by real estate contract.

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

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

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

~~(6)~~)) All moneys received pursuant to this section, less any real estate broker's commissions paid pursuant to RCW 47.12.320 or revenues deposited into the transportation facilities account created in section 3 of this act, ((~~shall~~)) must be deposited in the motor vehicle fund.

**Sec.**  RCW 43.17.400 and 2007 c 62 s 2 are each amended to read as follows:

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Disposition" means sales, exchanges, or other actions resulting in a transfer of land ownership.

(b) "State agencies" includes:

(i) The department of natural resources established in chapter 43.30 RCW;

(ii) The department of fish and wildlife established in chapter 43.300 RCW;

(iii) The department of transportation established in chapter 47.01 RCW;

(iv) The parks and recreation commission established in chapter 79A.05 RCW; and

(v) The department of ((~~general administration~~)) enterprise services established in this chapter.

(2) Except as provided in subsection (3) of this section, state agencies proposing disposition of state-owned land must provide written notice of the proposed disposition to the legislative authorities of the counties, cities, and towns in which the land is located at least sixty days before entering into the disposition agreement.

(3) The department of transportation, when proposing the disposition of state-owned land, must provide written notice of the proposed disposition to the legislative authorities of the counties,cities, and towns in which the land is located at least thirty days before entering into the disposition agreement.

(4) The requirements of this section are in addition and supplemental to other requirements of the laws of this state.

NEW SECTION. **Sec.**  A new section is added to chapter 47.12 RCW to read as follows:

(1) The transportation facilities account is created in the motor vehicle fund. Except as otherwise provided in subsections (2) and (3) of this section, all revenues received by the department from the sale of the following surplus property previously managed by the facilities division within the department must be deposited into the account: (a) Safety rest areas, (b) pit sites, (c) capital improvements, (d) waste sites, (e) quarry sites, and (f) maintenance facility sites. Moneys in the account may be spent only after appropriation. Revenues and interest from the account may be used only for surplus property expenditures and the repair and replacement of department facilities.

(2) Proceeds from the sale of surplus property previously managed by the facilities division must first be used to reimburse the office of real estate services within the department for costs related to the sale. Proceeds used for cost recovery purposes under this subsection may be withheld from being deposited into the account.

(3) Proceeds from the sale of surplus property may be withheld from being deposited into the account if they will be used to fund an active highway project in the immediate area of where the surplus property is located.

**Sec.**  RCW 47.12.063 and 2011 c 376 s 2 are each amended to read as follows:

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

(2) Whenever the department determines that any real property owned by the state of Washington and under the jurisdiction of the department is no longer required for transportation purposes and that it is in the public interest to do so, the department may sell the property ((~~or exchange it in full or part consideration for land or improvements orfor construction of improvements~~)) at fair market value to any person through the solicitation of written bids through public advertising in the manner prescribed under RCW 47.28.050 or in the manner prescribed under RCW 47.12.283.

(3) The department may forego the processes prescribed by RCW 47.28.050 and 47.12.283 and sell the real property to any of the following entities or persons at fair market value:

(a) Any other state agency;

(b) The city or county in which the property is situated;

(c) Any other municipal corporation;

(d) Regional transit authorities created under chapter 81.112 RCW;

(e) The former owner of the property from whom the state acquired title;

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

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

(h) To any other owner of real property required for transportation purposes;

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

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

(4) When selling real property pursuant to RCW 47.12.283, the department may withhold or withdraw the property from an auction when requested by one of the entities or persons listed in subsection (3) of this section and only after the receipt of a nonrefundable deposit equal to ten percent of the fair market value of the real property or five thousand dollars, whichever is less. This subsection does not prohibit the department from exercising its discretion to withhold or withdraw the real property from an auction if the department determines that the property is no longer surplus or chooses to sell the property through one of the other means listed in subsection (2) of this section. If a transaction under this subsection is not completed within sixty days, the real property must be put back up for sale.

(5) Sales to purchasers may, at the department's option, be for cash((~~,~~)) or by real estate contract((~~, or exchange of land or improvements. Transactions involving the construction of improvements must be conducted pursuant to chapter 47.28 RCW and Title 39 RCW, as applicable, and must comply with all other applicable laws and rules~~)). The department may not enter into equal value land exchange transactions.

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

(7) Unless otherwise provided, all moneys received pursuant to ((~~the provisions of~~)) this section, less any real estate broker commissions paid pursuant to RCW 47.12.320 ((~~shall~~)) or revenues deposited into the transportation facilities account created in section 3 of this act, must be deposited in the motor vehicle fund.

**Sec.**  RCW 43.84.092 and 2014 c 112 s 106, 2014 c 74 s 5, and 2014 c 32 s 6 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the diesel idle reduction account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the Interstate 405 express toll lanes operations account, the education construction fund, the education legacy trust account, the election account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the high occupancy toll lanes operations account, the hospital safety net assessment fund, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 civil penalties account, the state route number 520 corridor account, the state wildlife account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation facilities account, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, the state university permanent fund, and the state reclamation revolving account shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**Sec.**  RCW 43.84.092 and 2014 c 112 s 107, 2014 c 74 s 6, and 2014 c 32 s 7 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the Columbia river crossing project account, the common school construction fund, the community forest trust account, the county 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Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, the state university permanent fund, and the state reclamation revolving account shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. **Sec.**  Section 5 of this act expires on the date the requirements set out in section 7, chapter 36, Laws of 2012 are met.

NEW SECTION. **Sec.**  Section 6 of this act takes effect on the date the requirements set out in section 7, chapter 36, Laws of 2012 are met.

**--- END ---**