

# SENATE BILL REPORT

## 3SHB 2382

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As Reported by Senate Committee On:  
Human Services & Corrections, February 23, 2018

**Title:** An act relating to promoting the use of surplus public property for public benefit.

**Brief Description:** Promoting the use of surplus public property for public benefit.

**Sponsors:** House Committee on Transportation (originally sponsored by Representatives Ryu, Kagi and Valdez).

**Brief History:** Passed House: 2/09/18, 53-45.

**Committee Activity:** Human Services & Corrections: 2/20/18, 2/23/18 [DPA-WM, w/oRec].

### Brief Summary of Amended Bill

- Requires the Department of Commerce (Commerce) to work with designated state agencies to identify, catalog, and recommend the best use for under-utilized state-owned surplus land and property.
- Adds the State Parks and Recreation Commission (Parks Commission) and Washington State Patrol (WSP) to the definition of designated agencies.
- Requires that state agencies provide written notice to other state agencies; federal agencies; and certain counties, cities, towns, and federally recognized Indian tribes, at least 60 days prior to the disposal of surplus state property to a private or nongovernmental party.
- Allows any state or local agency to dispose of property to any public, private, or nongovernmental body for affordable housing development on any mutually agreed on terms and conditions, except where the law requires the sale at fair market value, with priority given to state agencies.

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Majority Report:** Do pass as amended and be referred to Committee on Ways & Means.  
Signed by Senators Darneille, Chair; Dhingra, Vice Chair; Carlyle, Frockt and Miloscia.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Minority Report:** That it be referred without recommendation.

Signed by Senator O'Ban, Ranking Member.

**Staff:** Keri Waterland (786-7490)

**Background:** Commerce must work with the Department of Social and Health Services (DSHS), the Department of Natural Resources (DNR), the Department of Transportation (DOT), the Department of Corrections (DOC), and the Department of Enterprise Services (DES) to identify and catalog property suitable for the development of affordable housing for low income households. Each year, these agencies must submit an inventory to Commerce of their real property that is available for lease or sale. Commerce must provide these inventories of state-owned lands and buildings to parties interested in developing sites for affordable housing.

Some state agencies have authority to dispose of state surplus property. DES has general authority to dispose of real property for all state agencies that do not have specific authority to do so themselves. State and local government property, generally, may be transferred or exchanged to other state, local, federal or tribal governments on mutually agreed upon terms by each entity. There are certain regulations regarding the intergovernmental transfer of property, specifically, the Department of Fish and Wildlife, DNR, DOT, DES, and the Parks Commission, must notify counties, cities, and towns, when proposing to dispose of state-owned land located within each local jurisdiction. State uniform accounting requirements for local governments require that any department receiving an internal transfer of property from another department must pay the full and fair market value of the property.

DOT may sell or exchange surplus lands for fair market value through a solicitation and bidding process, but may also sell land at fair market value directly to certain parties. Eligible parties include another state agency, a local or tribal government where the land is located, the previous private owner or resident, an abutting land owner, or a nonprofit organization dedicated to providing affordable housing and eligible to receive funding through the Trust Fund. Revenue from the sale of such property is directed to be deposited in the Motor Vehicle Account.

**Summary of Amended Bill:** Inventory of State Property for Affordable Housing.

Commerce must work with designated agencies to identify, catalog, and recommend the best use for under-utilized state-owned land and property. All designated agencies must provide an inventory of real property that is owned or administered by each agency, and is vacant or available for sale or lease. Commerce must work with the designated agencies to provide a consolidated list of any property transactions under the authority of this act, including appraisal, terms and conditions of the transaction, the value of the public benefit, and the impact to the agency, by November 1, annually. Designated agencies include the Parks Commission, WSP, DNR, DOT, DSHS, DOC, and DES.

Commerce must consolidate inventories into land that is either suitable or not suitable for affordable housing development in consideration of the property location, size, current use, and zoning classification. Affordable housing development means state-owned real property appropriate for sale, transfer, or lease to an affordable housing developer capable of receiving

the property within 180 days, and creating affordable housing units for occupancy within 36 months from the time of transfer.

Right of First Refusal for Government Agencies. State agencies must provide written notice to all other state agencies; federal agencies within state; and the governing authority of counties, cities, and towns, and federally recognized Indian tribes whose land in which the property is located, at least 60-days prior to the disposal of surplus state property to a private or nongovernmental party. The state agency providing notice must dispose of the property to any governmental entity responding in the notification period. Priority must be given to state agencies. The disposition may be for any agreed upon terms and conditions, except where the law requires the sale at fair market value.

Disposal of Public Property for Public Benefit. Any state agency, municipality, or political subdivision with authority to dispose of surplus public property may transfer property to any public, private, or nongovernmental body on any mutually agreeable terms and conditions, including a no-cost transfer, if the property is to be used for a public benefit. The deed, lease or other document disposing of the property must include a requirement that the property will be used for a designated public benefit, as well as remedies that apply if the property is not used for the designated purpose. Public benefit means affordable housing development, or related facilities, for households at or below 80 percent of the local adjusted median income. Surplus public property means excess real property that is not required for the needs of or the discharge of the responsibilities of the state agency, municipality, or political subdivision.

Each government entity must enact rules to regulate the disposition of surplus public property for public benefit purposes, which must be consistent with existing local plans. The authority to dispose of surplus property for public benefit may be used as an alternative to the authority of WSP, DOT, and city governments to sell surplus property at fair market value, but does not apply to state forest lands, common school lands, or other lands subject to legal restrictions. The disposition of surplus public property for public benefit must be consistent with any applicable local comprehensive plan, is deemed a lawful purpose for any state or local agency that keeps accounts on an enterprise fund, and is exempted from the local government accounting requirement that intra-agency property transfers must be paid for at true and full value. State forest lands, common school lands, or other lands subject to legal restrictions, are exempt from public property disposals for public benefit.

**EFFECT OF HUMAN SERVICES & CORRECTIONS COMMITTEE AMENDMENT (S):** Removes a requirement for 10 percent of the net proceeds from the sale of surplus state property to be deposited in the housing trust fund.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Third Substitute House Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: The need exceeds the availability of housing. There is a shortage of affordable housing and this is supportive of addressing homelessness and the increasing challenges to affordable housing. Many people are struggling to keep housing and live in stable conditions. Housing stability leads to people being productive members of society. This is step forward but is not enough. Rents are growing and becoming unaffordable. The federal government is pulling back so the state cannot. We need more creative solutions. This benefits communities because this opens new options and most communities do not have their own abilities to gain lands at an affordable rate to develop, and this provides an important tool to those areas, especially rural. This provides funding, helps decrease cost of land, and ensures that public agencies have some accountability to helping with affordable housing and homelessness. The 10 percent remittance rate needs to be worked out during the interim.

OTHER: Asking for amendment to include parks and open spaces—green spaces. Concern is that costs are skyrocketing and that subsidized housing is so expensive. If money comes into trust fund, the 10 percent should be set aside for rural communities. Should be a balance between urban and rural.

**Persons Testifying:** PRO: Representative Cindy Ryu, Prime Sponsor; Nick Federici, Washington Low Income Housing Alliance; Lisa Wolters, Association of Washington Housing Authorities and Seattle Housing Authority; M.A. Leonard, Vice President, Enterprise Community Partners; State Affordable Housing Advisory Board, Chair; Gina Chamberlain, Housing Developer, Community Frameworks.

OTHER: Mary Fleck, Seattle Green Spaces Coalition; Roger Valdez, Seattle for Growth.

**Persons Signed In To Testify But Not Testifying:** No one.