**1983 AMS VAND S7360.1 - NOT FOR FLOOR USE**

**HB 1983** - S AMD **1219**

By Senator Van De Wege

Strike everything after the enacting clause and insert the following:

"**Sec.**  RCW 77.12.037 and 2000 c 107 s 4 are each amended to read as follows:

(1) The commission may acquire by gift, easement, purchase, lease, or condemnation lands, buildings, water rights, rights-of-way, or other necessary property, and construct and maintain necessary facilities for purposes consistent with this title. The commission may authorize the director to acquire property under this section, but the power of condemnation may only be exercised by the director when an appropriation has been made by the legislature for the acquisition of a specific property, except to clear title and acquire access rights-of-way.

(2) The department has the authority to manage acquired lands using the best available land management techniques, and shall develop mitigation actions where appropriate. These techniques may include, but are not limited to:

(a) Issuance of new grazing leases covering a section of land or less and issuance of grazing leases for land that has been subject to a grazing lease within the previous ten years;

(b) Licenses or approvals to remove firewood;

(c) Issuance of leases for brush picking;

(d) Periodic use of chemical or mechanical means to maintain public and recreational land, as long as the chemicals used are approved by the Washington state department of agriculture and applied by licensed personnel in watersheds that are not controlled for the purpose of drinking water quality; and

(e) Issuance of rights-of-way, easements, and use permits to use existing roads in nonresidential areas.

(3) The commission may sell, lease, convey, or grant concessions upon real or personal property under the control of the department.

NEW SECTION. **Sec.**  A new section is added to chapter 43.21C RCW to read as follows:

The use of, or planning for, the specific natural resource management activities of the department of fish and wildlife in RCW 77.12.037(2) are not subject to the requirements of RCW 43.21C.031.

**Sec.**  RCW 79.13.420 and 2017 c 56 s 1 are each amended to read as follows:

(1) For the purposes of this section, "nondefault or early termination provision" means a provision that authorizes the department to terminate a lease in the event the department includes the leased land in a plan for higher and better use, land exchange, or sale.

(2) Any nondefault or early termination provision included in a state land lease for agricultural or grazing purposes must:

(a) Require advance written notice of at least one hundred eighty days by the department to the lessee prior to termination of the lease; and

(b) Require the department to provide to the lessee, along with the notice under (a) of this subsection, written documentation demonstrating that the department has included the leased land in a plan for higher and better use, land exchange, or sale.

(3) This section does not require the department to include a nondefault or early termination provision in any state land lease for agricultural or grazing purposes.

(4) This section does not prohibit the department from allowing the lessee to surrender the leasehold subject to terms provided in the lease.

(5) This section does not prohibit the department from executing other lease provisions designed to protect the interests of the lessee in the event that the lease is terminated under a nondefault or early termination provision.

(6) In the event that the department exercises a nondefault or early termination provision in a state land lease for agricultural or grazing purposes, the department shall compensate the lessee according to the following schedule:

(a) For grazing leases, the department shall pay to the lessee the annual rent for the land subject to the lease, multiplied by a factor of six, except that the department need not compensate the lessee for any years that are specifically designated in the lease as nongrazing years.

(b) For agricultural leases, the department shall pay to the lessee the expected net return the lessee would have realized from crops raised on the leased land, which must be calculated according to the following formula: The annual net revenue per acre for the class of crop produced by the lessee, less the rental rate per acre for the land leased by the lessee; multiplied by the number of acres leased by the lessee. For purposes of this subsection, the annual net revenue per acre for a class of crop must be calculated according to the most recent rolling average annual net rental return per acre for that class of crop as established by the county assessor of the county in which the leased land is located or, if the county assessor of the county in which the land is located has not established an annual net rental return per acre, as established by the county assessor of the nearest county in which the county assessor has established such an annual net rental return per acre. The annual net rental return per acre, as established by the county assessor, must be adjusted to reflect the total annual net revenue per acre.

(c) For both grazing leases and agricultural leases, the department shall make payments to the lessee on an annual basis for the remaining term of the terminated lease, unless the department and the lessee agree to an alternate schedule of payments. In the event that payments are made on any schedule other than on an annual basis, any advance payments must be subjected to an appropriate discount rate in order to reflect the net present value of the compensation owed by the department.

(d) For both grazing leases and agricultural leases, in the event that the lessee has placed any improvements, as authorized under RCW 79.13.050, on the land that is subject to the lease, the department is responsible for compensating the lessee for the value of the improvements. In the event that an agreement cannot be reached between the state and the lessee on the fair market value of the improvements, the valuation must be determined as prescribed under RCW 79.13.160.

(7) In the event that the department's exercise of a nondefault or early termination provision in a state land lease for agricultural or grazing purposes results in the removal of fencing from the land subject to the lease, the department is responsible for ensuring the replacement of any removed fencing.

(8) In the event that the department's exercise of a nondefault or early termination provision in a state land lease for agricultural or grazing purposes causes the lessee to incur a financial penalty as a result of an early withdrawal from a natural resources conservation service program, the department is responsible for reimbursing the lessee for payment of the financial penalty.

(9) The compensation and reimbursement available to a lessee under subsections (6) and (8) of this section, respectively, is the sole financial remedy available to the lessee based on the department's exercise of a nondefault or early termination provision in an agriculture or grazing lease. Appeal rights under RCW 79.02.030 are unaffected by the relief provided in this section."

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On page 1, line 1 of the title, after "activities;" strike the remainder of the title and insert "amending RCW 77.12.037 and 79.13.420; and adding a new section to chapter 43.21C RCW."

EFFECT: Specifies that, for the Department of Fish and Wildlife, the issuance of new grazing leases covering a section of land or less or the issuance of a grazing lease for land that has been subject to a lease within the previous 10 years are natural resource management activities exempt from the requirements to prepare an environmental impact statement under the State Environmental Policy Act. Requires the Department of Natural Resources (DNR) to compensate agricultural or grazing lessees in the event that DNR exercises a nondefault or early termination provision in a state land lease for agricultural or grazing purposes. Establishes compensation formulas for agricultural leases and for grazing leases. Creates certain additional obligations for DNR in the event that DNR exercises a nondefault or early termination provision in a state land lease for agricultural or grazing purposes.