

# SENATE BILL REPORT

## SB 6062

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As Reported by Senate Committee On:  
Agriculture, Water, Natural Resources & Parks, January 29, 2024

**Title:** An act relating to the authority of the department of natural resources to lease trust assets for the benefit of trust beneficiaries and the state.

**Brief Description:** Concerning the authority of the department of natural resources to lease trust assets for the benefit of trust beneficiaries and the state.

**Sponsors:** Senators Torres and Van De Wege; by request of Department of Natural Resources.

**Brief History:**

**Committee Activity:** Agriculture, Water, Natural Resources & Parks: 1/18/24, 1/29/24 [DPS, w/oRec].

### Brief Summary of First Substitute Bill

- Allows the Department of Natural Resources (DNR) to lease water rights or physical trust assets, deemed to be temporarily available for use on nonstate land.
- Establishes that leases for water rights or physical trust assets may not to exceed 20 years
- Requires DNR, when leasing water rights, to provide a minimum 60-day notice to any potentially impacted federally recognized tribe to determine if the lease or associated actions may impact fish, aquatic resources, cultural resources, or other treaty-reserved rights or tribal resources.
- Requires DNR to follow certain leasing provisions for leases of state lands when leasing water rights or physical trust assets.

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**SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES &**

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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 part of the legislation nor does it constitute a statement of legislative intent.*

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## PARKS

**Majority Report:** That Substitute Senate Bill No. 6062 be substituted therefor, and the substitute bill do pass.

Signed by Senators Van De Wege, Chair; Salomon, Vice Chair; Muzzall, Ranking Member; Liias, Shewmake, Short, Wagoner and Warnick.

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

Signed by Senator Stanford.

**Staff:** Karen Epps (786-7424)

**Background:** The Department of Natural Resources (DNR) manages a number of different categories of land, each for a specific purpose and under different management requirements. These include approximately 3 million acres of federally-granted lands and state forest lands, which DNR manages to support common schools, counties, and other public institutions.

DNR has the authority to lease state lands for various purposes, including commercial, industrial, residential, agricultural, and recreational uses, in order to obtain a fair-market rental return to the state or appropriate trust. DNR also manages more than 600,000 acres of state forest lands which were acquired primarily through tax foreclosures in the 1920s and 1930s, and to a lesser extent through purchases by the state or gifts to the state. State forest lands are managed for the benefit of the counties in which the lands are located.

DNR generally may not lease state lands for longer than ten years, although longer leases are specifically authorized in multiple instances. Lands leased for agricultural purposes may not exceed 25 years, except leases for tree fruit or grape production, which may be for up to 55 years. Leases for commercial, industrial, or business purposes may extend to 99 years, but leases that extend terms beyond 55 years must be reported to the Office of Financial Management and the appropriate committees of the Legislature within 30 days of the date of the execution of the lease. Share crop leases may not exceed ten years.

**Summary of Bill (First Substitute):** DNR may lease water rights and physical trust assets, deemed to be temporarily available for use on nonstate lands, for commercial, industrial, residential, agricultural, and recreational purposes in order to obtain a market rental return and if the lease is in the best interest of the state or affected trust. Water rights and physical trust assets may be leased for a term not to exceed 20 years.

Leasing of water rights requires a minimum 60-day advance notice to any potentially impacted federally recognized tribe to determine if the lease or associated actions may impact fish, aquatic resources, cultural resources, or other treaty reserved rights or tribal resources. Upon notice, a potentially impacted federally recognized tribe may request formal consultation during the notice period or at any time before the lease is finalized.

DNR must not enter into a final lease agreement, if a tribe requests consultation, until consultation occurs and DNR addresses any impacts and protections to treaty reserved resources.

DNR must exercise general supervision and control over the lease of water rights and physical trust assets. If DNR leases water rights or physical trust assets, the lease must contain the specific use or uses to which the asset is to be employed. During the lease of any water right or physical trust asset, DNR may alter and amend the terms and conditions of the lease if, in the opinion of DNR, it is in the best interest of the state and in agreement with the lessee. Leases that authorize commercial, industrial, or residential uses of state lands, and leases of water rights or physical trust assets, may be entered into by public auction or negotiations at the option of DNR.

**EFFECT OF CHANGES MADE BY AGRICULTURE, WATER, NATURAL RESOURCES & PARKS COMMITTEE (First Substitute):**

- Modifies trust assets to be water rights and physical trust assets.
- Establishes that leasing of water rights requires a minimum 60-day notice to any potentially impacted federally recognized tribe to determine if the lease or associated actions may impact fish, aquatic resources, cultural resources, or other treaty-reserved rights or tribal resources.
- Provides that a federally recognized tribe may request formal consultation during the notice period or at any time before the lease is finalized.
- Prohibits DNR from entering into a final lease agreement if a tribe requests consultation, until consultation occurs and any impacts and protections to treaty-reserved resources are addressed by DNR.

**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 of Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: This bill will allow DNR to lease trust assets for the benefit of trust beneficiaries. Trust assets are non-land assets such as water or water infrastructure, as well as tractors and other personal property owned by DNR. DNR manages a number of non-land assets and they do not currently have the authority to lease. DNR can currently lease land and infrastructure attached to the land on the land for any legal purpose, but cannot lease assets that are not attached to the land. Water is the biggest asset that would fall under this bill. DNR has over \$1 billion in assets that cannot be put to the most productive use because they cannot use that asset on anything

other than DNR trust land. This bill does not change the nature of any of DNR's water rights, does not create a water bank, and does not provide DNR with any special considerations over water rights. This bill allows DNR to lease water in the same way as other landowners.

OTHER: The Yakama Nation would like to get advanced notice before the lease is negotiated with a 60-day timeframe. Water in eastern Washington and elsewhere is becoming more and more valuable. There needs to be consideration about the protection of cultural resources and treaty resources before a transfer of water goes through the process with the Department of Ecology. There needs to be an opportunity for tribes to ask for consultation.

**Persons Testifying:** PRO: Senator Nikki Torres, Prime Sponsor; Duane Emmons, Department of Natural Resources; Christina Frantz, Department of Natural Resources.

OTHER: Dawn Vyvyan, Yakama Nation.

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