

HOUSE BILL REPORT

ESHB 2990

*As Passed House
March 4, 1992*

Title: An act relating to purchase of certain state trust lands for park and outdoor recreation purposes.

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

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

Brief History:

Reported by House Committee on:
Natural Resources & Parks, February 27, 1992, DPS;
Passed House, March 4, 1992, 85-10.

**HOUSE COMMITTEE ON
NATURAL RESOURCES & PARKS**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 11 members: Representatives Belcher, Chair; Scott, Vice Chair; Beck, Ranking Minority Member; Brumsickle, Assistant Ranking Minority Member; Dellwo; Fraser; Hargrove; Morton; Riley; Sheldon; and Wynne.

Staff: Randy Acker (786-7129).

Background:

The focus of this bill is the Diamond Point trust property on the Miller Peninsula.

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 in order 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 of the 22 parcels identified in the 1985 study to State Parks.

Subsequent to this, DNR and State Parks entered into a real estate contract in 1989 for the purchase of the 22 sites. Funds for the acquisition come 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, 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 the needs to develop the resort and a state park. Those negotiations produced a proposal that was authorized by State Parks 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 currently 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. This transaction will not occur until Peninsula Partners has secured all permits necessary for development of the resort.

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 basis 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 of Bill:

Nothing 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.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: The portion of the Diamond Point trust property that State Parks plans to acquire contains all of the critical resources that caused the parcel to be identified in the 1985 study. The proposed land exchange is a good deal for State Parks because it allows acquisition of those resources while providing for access, utilities, and park development. The trust land is not productive forest land and cannot be managed for timber production. Selling this land will allow DNR to acquire more productive land that can produce revenue for the trusts. DNR wants to conclude this transaction this biennium. Since the appeals process on this could take two years, this bill can help shorten that. A survey of people living in the Diamond Point area shows a majority favor the resort development. The resort will provide a badly needed boost to the Clallam County economy. Construction will help to offset recently lost timber jobs, and increased tourism can help to create the economic diversification the county needs. Even if some of the jobs are low paying, the county can use everything it can get.

Testimony Against: This bill will allow State Parks to give up land that is irreplaceable and has previously been identified as suitable for park purposes. The entire process associated with the land exchange and resort development has been secretive from the very beginning and has precluded adequate public participation. This bill further limits public review since it is being rushed through the Legislature. The public is outraged by the process and by the loss of public lands. This creates a dangerous precedent on disposition of public lands. There has been inadequate analysis of this proposal so that the benefits to the state are unknown. The jobs produced by resort development will be low paying jobs that will provide inadequate support even for a person working full time. The impacts of the resort on the environment have not been

adequately addressed. The bill is written to benefit a single special interest group at the expense of the public.

Witnesses: Senator Paul Connor (in favor); Representative Evan Jones (opposed); Andy Norris, Peninsula Partners (in favor); Pat McElroy, Department of Natural Resources (in favor); Cleve Pinnix, State Parks and Recreation Commission (in favor); David Bricklin, Save Our State Park (opposed); Darlene Schanfald, Save Our State Park (opposed); Gwen Lee, Building and Construction Trades Council and Rebound (opposed); Judith St. Claire, Clallam County Economic Development Council, (in favor); Ed Beggs, Mayor City of Sequim (in favor); Jack Mock, Sequim City Council (in favor); Dave LeRoux, citizen (opposed); Stewart Westcott, citizen (opposed); Nash Huber, citizen (opposed); Wayne King, citizen (opposed); and Gloria Champeau, citizen (in favor).