

HOUSE BILL REPORT

SHB 2321

As Amended by the Senate

Title: An act relating to the clarification of certain definitions in Title 79 RCW and related public land statutes.

Brief Description: Clarifying the definitions of certain natural resources terms.

Sponsors: By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Linville, Schoesler, Sump, Grant and Pearson; by request of Commissioner of Public Lands).

Brief History:

Committee Activity:

Agriculture & Natural Resources: 1/14/04, 1/27/04 [DPS].

Floor Activity:

Passed House: 2/12/04, 96-0.

Senate Amended.

Passed Senate: 3/4/04, 48-0.

Brief Summary of Substitute Bill

- Changes certain definitions in the Public Lands Act.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Linville, Chair; Rockefeller, Vice Chair; Schoesler, Ranking Minority Member; Holmquist, Assistant Ranking Minority Member; Kristiansen, Assistant Ranking Minority Member; Chandler, Eickmeyer, Grant, Hunt, McDermott, Orcutt and Sump.

Staff: Jason Callahan (786-7117).

Background:

The Department of Natural Resources (DNR) manages more than five million acres of state-owned land, which is more than any other state or local entity in Washington. Management authority and direction for the DNR is located in various sections of Title

79, the Public Lands Act. The scope and effect of those statutory directions depend on the term used to describe state land. The terms "state lands," "public lands," "state forest lands," and "aquatic lands" are among the terms that can be used to describe state-owned land, and they all have different meanings.

The term "public lands" is described as any lands of the State of Washington, and includes state trust lands that are not reserved for a specific use, aquatic lands, and those lands falling under the definition of "state lands." The term "state lands" includes lands held in trust for common schools or universities, capitol building lands, institutional lands, and all public lands except for aquatic lands. Not included in either definitions are state forest lands and some lands held for a specific purpose, such as natural area preserves, land bank lands, and natural resource conservation areas.

Fixtures attached to "state lands" that change the value of the land are defined as "improvements." This definition only applies to those lands falling under the definition of "state lands" and does not include fixtures on other public lands.

Summary of Substitute Bill:

Definitions

Certain definitions in the Public Lands Act are modified. The definition of "public lands" is expanded to include all lands administered by the DNR. This definition includes aquatic lands, state forest lands, and state lands. By not excluding any lands held for a specific purpose, this definition also encompasses holdings such as natural area preserves, land bank lands, and natural resource conservation areas. The definition of "state lands" is expanded to include land banks and escheat donations. The definition of "improvements" is expanded to cover all DNR-administered lands, and not just "state lands."

Changing "state lands" to "public lands"

The term "state lands" is changed to "public lands" in multiple sections, resulting in a broadening of the effect of the changed sections. This includes:

- Expanding the authority to recall a lease, contract, or deed to correct errors to all public lands, and not just state lands;
- Expanding the requirement to void certain legal transactions to all public lands, and not just state lands;
- Expanding the optional requirement that the DNR may comply with local zoning ordinances to all public lands, and not just state lands;

- Expanding the authority of the DNR to set rules or procedures governing the sale of valuable materials to aquatic lands and other public lands, and not just state lands and state forest lands; and
- Expanding the authority of the DNR to grant easement rights to aquatic lands and other public lands, and not just state lands and state forest lands.

EFFECT OF SENATE AMENDMENT(S):

Clarifies that the bill does not affect the trust responsibilities of the DNR or the rights, privileges, or prerogatives of the public.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: The current definitions in the Public Lands Act originated in 1927, and over time they have changed. Today they can often cause difficulties and inconsistencies. The definitions of "public lands" and "state lands" made sense in 1927, because they described the only two land types the DNR managed. That is no longer true today.

This bill will not alter the trust responsibilities of the DNR, nor change the way prospecting is carried out on DNR-managed land.

Testimony Against: None.

Persons Testifying: Doug Sutherland, Commissioner of Public Lands.

Persons Signed In To Testify But Not Testifying: None.