

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 2321**

Chapter 199, Laws of 2004

58th Legislature  
2004 Regular Session

PUBLIC LAND LAWS--DEFINITIONS

EFFECTIVE DATE: 6/10/04

Passed by the House March 10, 2004  
Yeas 97 Nays 0

FRANK CHOPP

\_\_\_\_\_  
**Speaker of the House of Representatives**

Passed by the Senate March 4, 2004  
Yeas 48 Nays 0

BRAD OWEN

\_\_\_\_\_  
**President of the Senate**

Approved March 29, 2004.

GARY F. LOCKE

\_\_\_\_\_  
**Governor of the State of Washington**

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2321** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

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**Chief Clerk**

FILED

March 29, 2004 - 2:58 p.m.

**Secretary of State  
State of Washington**

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**SUBSTITUTE HOUSE BILL 2321**

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AS AMENDED BY THE SENATE

Passed Legislature - 2004 Regular Session

**State of Washington                      58th Legislature                      2004 Regular Session**

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

READ FIRST TIME 01/29/04.

1            AN ACT Relating to the clarification of certain definitions in  
2 Title 79 RCW and related public land statutes; amending RCW 43.30.700,  
3 79.02.010, 79.02.040, 79.02.050, 79.02.160, 79.02.280, 79.02.290,  
4 79.02.300, 79.02.340, 79.10.060, 79.10.100, 79.11.100, 79.13.380,  
5 79.15.030, 79.15.055, 79.19.030, 79.22.300, 79.36.330, 79.36.355,  
6 79.36.380, 79.36.390, 79.38.010, 79.38.020, 79.38.030, 79.38.050,  
7 79.38.060, 79.64.020, and 79.70.040; reenacting and amending RCW  
8 79.64.040; adding a new section to chapter 79.02 RCW; and creating a  
9 new section.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**PART 1**

**TITLE 43 AMENDMENTS**

13            **Sec. 101.** RCW 43.30.700 and 1986 c 100 s 50 are each amended to  
14 read as follows:

15            (1) The department may:

16            (a) Inquire into the production, quality, and quantity of second  
17 growth timber to ascertain conditions for reforestation; and

1 (b) Publish information pertaining to forestry and forest products  
2 which it considers of benefit to the people of the state.

3 (2) The department shall:

4 (a) Collect information through investigation by its employees, on  
5 forest lands owned by the state, including:

6 (i) Condition of the lands;

7 (ii) Forest fire damage;

8 (iii) Illegal cutting, trespassing, or thefts; and

9 (iv) The number of acres and the value of the timber that is cut  
10 and removed each year, to determine which state lands are valuable  
11 chiefly for growing timber;

12 (b) Prepare maps of each timbered county showing state land  
13 therein; and

14 (c) Protect (~~state land~~) forested public land, as defined in RCW  
15 79.02.010, as much as is practical and feasible from fire, trespass,  
16 theft, and the illegal cutting of timber.

17 (3) When the department considers it to be in the best interest of  
18 the state, it may cooperate with any agency of another state, the  
19 United States or any agency thereof, the Dominion of Canada or any  
20 agency or province thereof, and any county, town, corporation,  
21 individual, or Indian tribe within the state of Washington in:

22 (a) Forest surveys;

23 (b) Forest studies;

24 (c) Forest products studies; and

25 (d) Preparation of plans for the protection, management, and  
26 replacement of trees, wood lots, and timber tracts.

27 **PART 2**

28 **TITLE 79 AMENDMENTS**

29 **Sec. 201.** RCW 79.02.010 and 2003 c 334 s 301 are each amended to  
30 read as follows:

31 The definitions in this section apply throughout this title unless  
32 the context clearly requires otherwise.

33 (1) "Aquatic lands" means all state-owned tidelands, shorelands,  
34 harbor areas, and the beds of navigable waters as defined in chapter  
35 79.90 RCW that are (~~managed~~) administered by the department.

36 (2) "Board" means the board of natural resources.

- 1 (3) "Commissioner" means the commissioner of public lands.
- 2 (4) "Community and technical college forest reserve lands" means  
3 lands managed under RCW 79.02.420.
- 4 (5) "Department" means the department of natural resources.
- 5 (6) (~~"Improvements," when referring to state lands,~~)  
6 "Improvements" means anything considered a fixture in law placed upon  
7 or attached to (~~such~~) lands administered by the department that has  
8 changed the value of the lands or any changes in the previous condition  
9 of the fixtures that changes the value of the lands.
- 10 (7) "Land bank lands" means lands acquired under RCW 79.19.020.
- 11 (8) "Person" means an individual, partnership, corporation,  
12 association, organization, cooperative, public or municipal  
13 corporation, or agency of a federal, state, or local governmental unit,  
14 however designated.
- 15 (9) "Public lands" means lands of the state of Washington (~~and~~  
16 ~~includes lands belonging to or held in trust by the state, which are~~  
17 ~~not devoted to or reserved for a particular use by law. They include~~)  
18 administered by the department including but not limited to state  
19 lands, (~~tidelands, shorelands, and harbor areas as defined in chapter~~  
20 79.90 RCW, and the beds of navigable waters belonging to the) state  
21 forest lands, and aquatic lands.
- 22 (10) "State forest lands" means lands acquired under RCW 79.22.010,  
23 79.22.040, and 79.22.020.
- 24 (11) "State lands" includes:
- 25 (a) School lands, that is, lands held in trust for the support of  
26 the common schools;
- 27 (b) University lands, that is, lands held in trust for university  
28 purposes;
- 29 (c) Agricultural college lands, that is, lands held in trust for  
30 the use and support of agricultural colleges;
- 31 (d) Scientific school lands, that is, lands held in trust for the  
32 establishment and maintenance of a scientific school;
- 33 (e) Normal school lands, that is, lands held in trust for state  
34 normal schools;
- 35 (f) Capitol building lands, that is, lands held in trust for the  
36 purpose of erecting public buildings at the state capital for  
37 legislative, executive, and judicial purposes;

1 (g) Institutional lands, that is, lands held in trust for state  
2 charitable, educational, penal, and reformatory institutions; and

3 (h) (~~All public lands of the state, except tidelands, shorelands,~~  
4 ~~harbor areas, and the beds of navigable waters~~) Land bank, escheat,  
5 donations, and all other lands, except aquatic lands, administered by  
6 the department that are not devoted to or reserved for a particular use  
7 by law.

8 (12) (~~"Valuable materials," when referring to state lands or state~~  
9 ~~forest lands,~~) "Valuable materials" means any product or material on  
10 the lands, such as forest products, forage or agricultural crops,  
11 stone, gravel, sand, peat, and all other materials of value except  
12 mineral, coal, petroleum, and gas as provided for under chapter 79.14  
13 RCW.

14 **Sec. 202.** RCW 79.02.040 and 2003 c 334 s 432 are each amended to  
15 read as follows:

16 The department may review and reconsider any of its official acts  
17 relating to (~~state~~) public lands until such time as a lease,  
18 contract, or deed shall have been made, executed, and finally issued,  
19 and the department may recall any lease, contract, or deed issued for  
20 the purpose of correcting mistakes or errors, or supplying omissions.

21 **Sec. 203.** RCW 79.02.050 and 2003 c 334 s 365 are each amended to  
22 read as follows:

23 (1) Any sale, transfer, or lease (~~of state lands~~) in which the  
24 purchaser, transfer recipient, or lessee obtains the sale or lease by  
25 fraud or misrepresentation is void, and the contract of purchase or  
26 lease shall be of no effect. In the event of fraud, the contract,  
27 transferred property, or lease must be surrendered to the department,  
28 but the purchaser, transfer recipient, or lessee may not be refunded  
29 any money paid on account of the surrendered contract, transfer, or  
30 lease.

31 (~~{(2)}~~) (2) In the event that a mistake is discovered in the sale  
32 or lease (~~of state lands~~), or in the sale of valuable materials (~~on~~  
33 ~~state lands~~), the department may take action to correct the mistake in  
34 accordance with RCW 79.02.040 if maintaining the corrected contract,  
35 transfer, or lease is in the best interests of the affected trust or  
36 trusts.

1           **Sec. 204.** RCW 79.02.160 and 2003 c 334 s 308 are each amended to  
2 read as follows:

3           In case any person interested in any tract of land heretofore  
4 selected by the territory of Washington or any officer, board, or agent  
5 thereof or by the state of Washington or any officer, board, or agent  
6 thereof or which may be hereafter selected by the state of Washington  
7 or the department, in pursuance to any grant of (~~public~~) lands made  
8 by the United States to the territory or state of Washington for any  
9 purpose or upon any trust whatever, the selection of which has failed  
10 or been rejected or shall fail or shall be rejected for any reason,  
11 shall request it, the department shall have the authority and power on  
12 behalf of the state to relinquish to the United States such tract of  
13 land.

14           **Sec. 205.** RCW 79.02.280 and 2003 c 334 s 377 are each amended to  
15 read as follows:

16           All contracts of purchase(~~(  )~~) or leases(~~(  of state lands)~~) issued  
17 by the department shall be assignable in writing by the contract holder  
18 or lessee and the assignee shall be subject to and governed by the  
19 provisions of law applicable to the assignor and shall have the same  
20 rights in all respects as the original purchaser, or lessee, of the  
21 lands, provided the assignment is approved by the department and  
22 entered of record in its office.

23           **Sec. 206.** RCW 79.02.290 and 2003 c 334 s 363 are each amended to  
24 read as follows:

25           Whenever the holder of a contract of purchase (~~(  of any state~~  
26 ~~lands,  )~~) or the holder of any lease (~~(  of any such lands)~~), except for  
27 mining of valuable minerals or coal, or extraction of petroleum or gas,  
28 shall surrender the same to the department with the request to have it  
29 divided into two or more contracts, or leases, the department may  
30 divide the same and issue new contracts, or leases, but no new  
31 contract, or lease, shall issue while there is due and unpaid any  
32 interest, rental, or taxes or assessments on the land held under such  
33 contract or lease, nor in any case where the department is of the  
34 opinion that the state's security would be impaired or endangered by  
35 the proposed division. For all such new contracts, or leases, a fee as  
36 provided under this chapter, shall be paid by the applicant.

1           **Sec. 207.** RCW 79.02.300 and 2003 c 334 s 435 are each amended to  
2 read as follows:

3           (1) Every person who, without authorization, uses or occupies  
4 public lands, removes any valuable material as defined in RCW  
5 (~~79.01.038~~) 79.02.010 from public lands, or causes waste or damage to  
6 public lands, or injures publicly owned personal property or publicly  
7 owned improvements to real property on public lands, is liable to the  
8 state for treble the amount of the damages. However, liability shall  
9 be for single damages if the department determines, or the person  
10 proves upon trial, that the person, at time of the unauthorized act or  
11 acts, did not know, or have reason to know, that he or she lacked  
12 authorization. Damages recoverable under this section include, but are  
13 not limited to, the market value of the use, occupancy, or things  
14 removed, had the use, occupancy, or removal been authorized; and any  
15 damages caused by injury to the land, publicly owned personal property  
16 or publicly owned improvement, including the costs of restoration. In  
17 addition, the person is liable for reimbursing the state for its  
18 reasonable costs, including but not limited to, its administrative  
19 costs, survey costs to the extent they are not included in damages  
20 awarded for restoration costs, and its reasonable attorneys' fees and  
21 other legal costs.

22           (2) This section does not apply in any case where liability for  
23 damages is provided under RCW 64.12.030, 4.24.630, 79.02.320, or  
24 79.02.340.

25           (3) The department is authorized and directed to investigate all  
26 trespasses and wastes upon, and damages to, public lands of the state,  
27 and to cause prosecutions for, and/or actions for the recovery of the  
28 same to be commenced as is provided by law.

29           **Sec. 208.** RCW 79.02.340 and 2003 c 334 s 504 are each amended to  
30 read as follows:

31           It shall be unlawful for any person to enter upon (~~any of the~~  
32 ~~state~~) public lands(~~(, including all land under the jurisdiction of~~  
33 ~~the department,)~~) or upon any private land without the permission of  
34 the owner thereof and to cut, break, or remove therefrom for commercial  
35 purposes any evergreen trees, commonly known as Christmas trees,  
36 including fir, hemlock, spruce, and pine trees. Any person cutting,  
37 breaking, or removing or causing to be cut, broken, or removed, or who

1 cuts down, cuts off, breaks, tops, or destroys any of such Christmas  
2 trees shall be liable to the state, or to the private owner thereof,  
3 for payment for such trees at a price of one dollar each if payment is  
4 made immediately upon demand. Should it be necessary to institute  
5 civil action to recover the value of such trees, the state in the case  
6 of ~~((state))~~ public lands, or the owner in case of private lands, may  
7 exact treble damages on the basis of three dollars per tree for each  
8 tree so cut or removed.

9 **Sec. 209.** RCW 79.10.060 and 2003 c 334 s 544 are each amended to  
10 read as follows:

11 The department may comply with county or municipal zoning  
12 ordinances, laws, rules, or regulations affecting the use of ~~((state))~~  
13 public lands ~~((under the jurisdiction of the department))~~ where such  
14 regulations are consistent with the treatment of similar private lands.

15 **Sec. 210.** RCW 79.10.100 and 2003 c 334 s 534 are each amended to  
16 read as follows:

17 The legislature hereby directs that a multiple use concept be  
18 utilized by the department in the ~~((management and))~~ administration of  
19 ~~((state-owned))~~ public lands ~~((under the jurisdiction of the~~  
20 ~~department))~~ where such a concept is in the best interests of the state  
21 and the general welfare of the citizens thereof, and is consistent with  
22 the applicable ~~((trust))~~ provisions of the various lands involved.

23 **Sec. 211.** RCW 79.11.100 and 2003 c 334 s 328 are each amended to  
24 read as follows:

25 In no case shall any lands granted to the state be offered for sale  
26 under this chapter unless the same shall have been appraised by the  
27 board within ninety days prior to the date fixed for the sale. A  
28 purchaser of state lands may not rely upon the appraisal prepared by  
29 the department or made by the board for purposes of deciding whether to  
30 make a purchase from the department. All purchasers are required to  
31 make their own independent appraisals.

32 **Sec. 212.** RCW 79.13.380 and 2003 c 334 s 491 are each amended to  
33 read as follows:

34 The department has the power, and it is its duty, to adopt, from



1 time to time, reasonable rules for the grazing of livestock on such  
2 tracts and areas of the indemnity or lieu (~~public~~) lands of the state  
3 contiguous to national forests and suitable for grazing purposes, as  
4 have been, or shall be, obtained from the United States under the  
5 provisions of RCW 79.02.120.

6 **Sec. 213.** RCW 79.15.030 and 2003 c 334 s 339 are each amended to  
7 read as follows:

8 All sales of valuable materials (~~upon state lands and state forest~~  
9 ~~lands~~) shall be made subject to the right, power, and authority of the  
10 department to prescribe rules or procedures governing the manner of the  
11 sale and removal of the valuable materials. Such procedures shall be  
12 binding when contained within a purchaser's contract for valuable  
13 materials and apply to the purchaser's successors in interest and shall  
14 be enforced by the department.

15 **Sec. 214.** RCW 79.15.055 and 2003 c 334 s 309 are each amended to  
16 read as follows:

17 For the purposes of this chapter, "appraisal" means an estimate of  
18 the market value of (~~land or~~) valuable materials. The estimate must  
19 reflect the value based on market conditions at the time of the sale or  
20 transfer offering. The appraisal must reflect the department's best  
21 effort to establish a reasonable market value for the purpose of  
22 setting a minimum bid at auction or transfer. A purchaser of (~~state~~  
23 ~~lands or~~) valuable materials may not rely upon the appraisal prepared  
24 by the department for purposes of deciding whether to make a purchase  
25 from the department. All purchasers are required to make their own  
26 independent appraisals.

27 **Sec. 215.** RCW 79.19.030 and 2003 c 334 s 527 are each amended to  
28 read as follows:

29 The department, with the approval of the board, may:

30 (1) Exchange property held in the land bank for any other  
31 (~~public~~) lands of equal value administered by the department,  
32 including any lands held in trust.

33 (2) Exchange property held in the land bank for property of equal  
34 or greater value which is owned publicly or privately, and which has

1 greater potential for natural resource or income production or which  
2 could be more efficiently managed by the department, however, no power  
3 of eminent domain is hereby granted to the department; and

4 (3) Sell property held in the land bank in the manner provided by  
5 law for the sale of state lands without any requirement of platting and  
6 to use the proceeds to acquire property for the land bank which has  
7 greater potential for natural resource or income production or which  
8 would be more efficiently managed by the department.

9 **Sec. 216.** RCW 79.22.300 and 2003 c 334 s 213 are each amended to  
10 read as follows:

11 Whenever the board of county commissioners of any county shall  
12 determine that state forest lands, that were acquired from such county  
13 by the state pursuant to RCW 79.22.040 and that are under the  
14 administration of the department, are needed by the county for public  
15 park use in accordance with the county and the state outdoor recreation  
16 plans, the board of county commissioners may file an application with  
17 the board for the transfer of such state forest lands.

18 Upon the filing of an application by the board of county  
19 commissioners, the department shall cause notice of the impending  
20 transfer to be given in the manner provided by RCW 42.30.060. If the  
21 department determines that the proposed use is in accordance with the  
22 state outdoor recreation plan, it shall reconvey said state forest  
23 lands to the requesting county to have and to hold for so long as the  
24 state forest lands are developed, maintained, and used for the proposed  
25 public park purpose. This reconveyance may contain conditions to allow  
26 the department to coordinate the management of any adjacent (~~state~~  
27 ~~owned~~) public lands with the proposed park activity to encourage  
28 maximum multiple use management and may reserve rights of way needed to  
29 manage other (~~state-owned~~) public lands in the area. The application  
30 shall be denied if the department finds that the proposed use is not in  
31 accord with the state outdoor recreation plan. If the land is not, or  
32 ceases to be, used for public park purposes the land shall be conveyed  
33 back to the department upon request of the department.

34 **Sec. 217.** RCW 79.36.330 and 2003 c 334 s 228 are each amended to  
35 read as follows:

36 In the event the department should determine that the property

1 interests acquired under the authority of this chapter are no longer  
2 necessary for the purposes for which they were acquired, the department  
3 shall dispose of the same in the following manner, when in the  
4 discretion of the department it is to the best interests of the state  
5 of Washington to do so, except that property purchased with educational  
6 funds or held in trust for educational purposes shall be sold only in  
7 the same manner as are ((public)) state lands ((of the state)):

8 (1) Where the state property necessitating the acquisition of  
9 private property interests for access purposes under authority of this  
10 chapter is sold or exchanged, the acquired property interests may be  
11 sold or exchanged as an appurtenance of the state property when it is  
12 determined by the department that sale or exchange of the state  
13 property and acquired property interests as one parcel is in the best  
14 interests of the state.

15 (2) If the acquired property interests are not sold or exchanged as  
16 provided in subsection (1) of this section, the department shall notify  
17 the person or persons from whom the property interest was acquired,  
18 stating that the property interests are to be sold, and that the person  
19 or persons shall have the right to purchase the same at the appraised  
20 price. The notice shall be given by registered letter or certified  
21 mail, return receipt requested, mailed to the last known address of the  
22 person or persons. If the address of the person or persons is unknown,  
23 the notice shall be published twice in an official newspaper of general  
24 circulation in the county where the lands or a portion thereof is  
25 located. The second notice shall be published not less than ten nor  
26 more than thirty days after the notice is first published. The person  
27 or persons shall have thirty days after receipt of the registered  
28 letter or five days after the last date of publication, as the case may  
29 be, to notify the department, in writing, of their intent to purchase  
30 the offered property interest. The purchaser shall include with his or  
31 her notice of intention to purchase, cash payment, certified check, or  
32 money order in an amount not less than one-third of the appraised  
33 price. No instrument conveying property interests shall issue from the  
34 department until the full price of the property is received by the  
35 department. All costs of publication required under this section shall  
36 be added to the appraised price and collected by the department upon  
37 sale of the property interests.

1 (3) If the property interests are not sold or exchanged as provided  
2 in subsections (1) and (2) of this section, the department shall notify  
3 the owners of land abutting the property interests in the same manner  
4 as provided in subsection (2) of this section and their notice of  
5 intent to purchase shall be given in the manner and in accordance with  
6 the same time limits as are set forth in subsection (2) of this  
7 section. However, if more than one abutting owner gives notice of  
8 intent to purchase the property interests, the department shall  
9 apportion them in relation to the lineal footage bordering each side of  
10 the property interests to be sold, and apportion the costs to the  
11 interested purchasers in relation thereto. Further, no sale is  
12 authorized by this section unless the department is satisfied that the  
13 amounts to be received from the several purchasers will equal or exceed  
14 the appraised price of the entire parcel plus any costs of publishing  
15 notices.

16 (4) If no sale or exchange is consummated as provided in  
17 subsections (1) through (3) of this section, the department shall sell  
18 the properties in the same manner as state lands are sold.

19 (5) Any disposal of property interests authorized by this chapter  
20 shall be subject to any existing rights previously granted by the  
21 department.

22 **Sec. 218.** RCW 79.36.355 and 2003 c 334 s 396 are each amended to  
23 read as follows:

24 The department may grant to any person such easements and rights in  
25 (~~state lands or state forest~~) public lands, not otherwise provided in  
26 law, as the applicant applying therefor may acquire in privately owned  
27 lands (~~through proceedings in eminent domain~~). No grant shall be  
28 made under this section until such time as the full market value of the  
29 estate or interest granted together with damages to all remaining  
30 property of the state of Washington has been ascertained and safely  
31 secured to the state.

32 **Sec. 219.** RCW 79.36.380 and 1982 1st ex.s. c 21 s 168 are each  
33 amended to read as follows:

34 Every grant, deed, conveyance, contract to purchase or lease made  
35 since (~~the fifteenth day of~~) June 15, 1911, or hereafter made to any  
36 person, firm, or corporation, for a right of way for a private

1 railroad, skid road, canal, flume, watercourse, or other easement, over  
2 or across any (~~state~~) public lands for the purpose of, and to be used  
3 in, transporting and moving timber, minerals, stone, sand, gravel, or  
4 other valuable materials of the land, shall be subject to the right of  
5 the state, or any grantee or lessee thereof, or other person who has  
6 acquired since (~~the fifteenth day of~~) June 15, 1911, or shall  
7 hereafter acquire, any lands containing valuable materials contiguous  
8 to, or in proximity to, such right of way, or who has so acquired or  
9 shall hereafter acquire such valuable materials situated upon (~~state~~)  
10 public lands or contiguous to, or in proximity to, such right of way,  
11 of having such valuable materials transported or moved over such  
12 private railroad, skid road, flume, canal, watercourse, or other  
13 easement, after the same is or has been put in operation, upon paying  
14 therefor just and reasonable rates for transportation, or for the use  
15 of such private railroad, skid road, flume, canal, watercourse, or  
16 other easement, and upon complying with just, reasonable and proper  
17 rules and regulations relating to such transportation or use, which  
18 rates, rules, and regulations, shall be under the supervision and  
19 control of the utilities and transportation commission.

20 **Sec. 220.** RCW 79.36.390 and 1982 1st ex.s. c 21 s 169 are each  
21 amended to read as follows:

22 Any person, firm, or corporation, having acquired such right of way  
23 or easement since (~~the fifteenth day of~~) June 15, 1911, or hereafter  
24 acquiring such right of way or easement over any (~~state~~) public lands  
25 for the purpose of transporting or moving timber, mineral, stone, sand,  
26 gravel, or other valuable materials, and engaged in such business  
27 thereon, shall accord to the state, or any grantee or lessee thereof,  
28 having since (~~the fifteenth day of~~) June 15, 1911, acquired, or  
29 hereafter acquiring, from the state, any (~~state~~) public lands  
30 containing timber, mineral, stone, sand, gravel, or other valuable  
31 materials, contiguous to or in proximity to such right of way or  
32 easement, or any person, firm, or corporation, having since (~~the~~  
33 ~~fifteenth day of~~) June 15, 1911, acquired, or hereafter acquiring, the  
34 timber, mineral, stone, sand, gravel, or other valuable materials upon  
35 any (~~state~~) public lands contiguous to or in proximity to the lands  
36 over which such right of way or easement is operated, proper and  
37 reasonable facilities and service for transporting and moving such

1 valuable materials, under reasonable rules and regulations and upon  
2 payment of just and reasonable charges therefor, or, if such right of  
3 way or other easement is not then in use, shall accord the use of such  
4 right of way or easement for transporting and moving such valuable  
5 materials, under reasonable rules and regulations and upon the payment  
6 of just and reasonable charges therefor.

7 **Sec. 221.** RCW 79.38.010 and 2003 c 334 s 499 are each amended to  
8 read as follows:

9 In addition to any authority otherwise granted by law, the  
10 department shall have the authority to acquire lands, interests in  
11 lands, and other property for the purpose of affording access by road  
12 to public lands (~~((or state forest lands))~~) from any public highway.

13 **Sec. 222.** RCW 79.38.020 and 1981 c 204 s 1 are each amended to  
14 read as follows:

15 To facilitate the carrying out of the purpose of this chapter, the  
16 department (~~((of natural resources))~~) may:

17 (1) Grant easements, rights of way, and permits to cross public  
18 lands (~~((and state forest lands))~~) to any person in exchange for similar  
19 rights over lands not under its jurisdiction;

20 (2) Enter into agreements with any person or agency relating to  
21 purchase, construction, reconstruction, maintenance, repair,  
22 regulation, and use of access roads or public roads used to provide  
23 access to public lands (~~((or state forest lands))~~);

24 (3) Dispose, by sale, exchange, or otherwise, of any interest in an  
25 access road in the event it determines such interest is no longer  
26 necessary for the purposes of this chapter.

27 **Sec. 223.** RCW 79.38.030 and 2003 c 334 s 500 are each amended to  
28 read as follows:

29 Purchasers of valuable materials from public lands (~~((or state  
30 forest lands))~~) may use access roads or public roads for the removal of  
31 such materials where the rights acquired by the state will permit, but  
32 use shall be subject to the right of the department:

33 (1) To impose reasonable terms for the use, construction,  
34 reconstruction, maintenance, and repair of such access roads; and

1 (2) To impose reasonable charges for the use of such access roads  
2 or public roads which have been constructed or reconstructed through  
3 funding by the department.

4 **Sec. 224.** RCW 79.38.050 and 2003 c 334 s 502 are each amended to  
5 read as follows:

6 The department shall create, maintain, and administer a revolving  
7 fund, to be known as the access road revolving fund in which shall be  
8 deposited all moneys received by it from users of access roads as  
9 payment for costs incurred or to be incurred in maintaining, repairing,  
10 and reconstructing access roads, or public roads used to provide access  
11 to public lands (~~(or state forest lands)~~). The department may use  
12 moneys in the fund for the purposes for which they were obtained  
13 without appropriation by the legislature.

14 **Sec. 225.** RCW 79.38.060 and 2003 c 334 s 503 are each amended to  
15 read as follows:

16 All moneys received by the department from users of access roads  
17 that are not deposited in the access road revolving fund shall be paid  
18 as follows:

19 (1) To reimburse the state fund or account from which expenditures  
20 have been made for the acquisition, construction, or improvement of the  
21 access road or public road, and upon full reimbursement, then

22 (2) To the funds or accounts for which the public lands (~~(and state~~  
23 ~~forest lands)~~), to which access is provided, are pledged by law or  
24 constitutional provision, in which case the department shall make an  
25 equitable apportionment between funds and accounts so that no fund or  
26 account shall benefit at the expense of another.

27 **Sec. 226.** RCW 79.64.020 and 2003 c 334 s 520 are each amended to  
28 read as follows:

29 A resource management cost account in the state treasury is created  
30 to be used solely for the purpose of defraying the costs and expenses  
31 necessarily incurred by the department in managing and administering  
32 (~~(public)~~) state lands and aquatic lands and the making and  
33 administering of leases, sales, contracts, licenses, permits,  
34 easements, and rights of way as authorized under the provisions of this  
35 title. Appropriations from the resource management cost account to the

1 department shall be expended for no other purposes. Funds in the  
2 resource management cost account may be appropriated or transferred by  
3 the legislature for the benefit of all of the trusts from which the  
4 funds were derived.

5 **Sec. 227.** RCW 79.64.040 and 2003 c 334 s 522 and 2003 c 313 s 8  
6 are each reenacted and amended to read as follows:

7 The board shall determine the amount deemed necessary in order to  
8 achieve the purposes of this chapter and shall provide by rule for the  
9 deduction of this amount from the moneys received from all leases,  
10 sales, contracts, licenses, permits, easements, and rights of way  
11 issued by the department and affecting ((public)) state lands and  
12 aquatic lands, provided that no deduction shall be made from the  
13 proceeds from agricultural college lands. Moneys received as deposits  
14 from successful bidders, advance payments, and security under RCW  
15 79.15.100, 79.15.080, and 79.11.150 prior to December 1, 1981, which  
16 have not been subjected to deduction under this section are not subject  
17 to deduction under this section. The deductions authorized under this  
18 section shall in no event exceed twenty-five percent of the moneys  
19 received by the department in connection with any one transaction  
20 pertaining to ((public)) state lands and aquatic lands other than  
21 second class tide and shore lands and the beds of navigable waters, and  
22 fifty percent of the moneys received by the department pertaining to  
23 second class tide and shore lands and the beds of navigable waters.

24 In the event that the department sells logs using the contract  
25 harvesting process described in RCW 79.15.500 through 79.15.530, the  
26 moneys received subject to this section are the net proceeds from the  
27 contract harvesting sale.

28 **Sec. 228.** RCW 79.70.040 and 1972 ex.s. c 119 s 4 are each amended  
29 to read as follows:

30 The department is further authorized to purchase, lease, set aside,  
31 or exchange any public ((land or state owned trust)) lands which are  
32 deemed to be natural areas: PROVIDED, That the appropriate state land  
33 trust receives the fair market value for any interests that are  
34 disposed of: PROVIDED, FURTHER, That such transactions are approved by  
35 the board of natural resources.



1 An area consisting of public land (~~(or state-owned trust lands)~~)  
2 designated as a natural area preserve shall be held in trust and shall  
3 not be alienated except to another public use upon a finding by the  
4 department of natural resources of imperative and unavoidable public  
5 necessity.

6 **PART 3**  
7 **MISCELLANEOUS**

8 NEW SECTION. **Sec. 301.** A new section is added to chapter 79.02  
9 RCW under the subchapter heading "general provisions" to read as  
10 follows:

11 The provisions of this act are not intended to affect the trust  
12 responsibilities or trust management by the department for any trust  
13 lands granted by the federal government or legislatively created  
14 trusts. The trust obligations relating to federally granted lands,  
15 state forest lands, community and technical college forest reserve  
16 lands, and university repayment lands shall not be altered by the  
17 definition clarifications contained in this act. The rights,  
18 privileges, and prerogatives of the public shall not be altered in any  
19 way by this act, and no additional or changed authority or power is  
20 granted to any person, corporation, or entity.

21 NEW SECTION. **Sec. 302.** Part headings used in this act are not any  
22 part of the law.

Passed by the House March 10, 2004.  
Passed by the Senate March 4, 2004.  
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