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**SENATE BILL 5872**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senator Dansel

AN ACT Relating to the acquisition of land by state natural resources agencies; amending RCW 77.12.037, 77.12.220, 79.70.030, 79.71.040, and 79A.05.095; reenacting and amending RCW 79A.05.030; adding a new section to chapter 77.12 RCW; adding a new section to chapter 43.30 RCW; and adding a new section to chapter 79A.05 RCW.

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

NEW SECTION. **Sec.**  A new section is added to chapter 77.12 RCW to read as follows:

(1) Prior to acquiring real property in any county after the effective date of this section, the department must identify for sale department-owned land in that same county of equal to or greater acreage than the property to be acquired.

(2) The department must dispose of the land identified for sale under subsection (1) of this section as expediently as is reasonably practicable after the relevant real property acquisition. The department must provide monthly updates, consistent with RCW 43.01.036, to the office of financial management and appropriate committees of the senate and house of representatives on the status of the sale process.

**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. Real property acquisitions by the commission or department are subject to the applicable requirements of section 1 of this act.

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

**Sec.**  RCW 77.12.220 and 2000 c 107 s 219 are each amended to read as follows:

(1) For purposes of this title, the commission may make agreements to obtain real or personal property or to transfer or convey property held by the state to the United States or its agencies or instrumentalities, units of local government of this state, public service companies, or other persons, if in the judgment of the commission and the attorney general the transfer and conveyance is consistent with public interest. For purposes of this section, "local government" means any city, town, county, special district, municipal corporation, or quasi-municipal corporation.

(2) If the commission agrees to a transfer or conveyance under this section or to a sale or return of real property under RCW 77.12.210, the director shall certify, with the attorney general, to the governor that the agreement has been made. The certification shall describe the real property. The governor then may execute and the secretary of state attest and deliver to the appropriate entity or person the instrument necessary to fulfill the agreement.

(3) Real property acquisitions by the commission or department are subject to the applicable requirements of section 1 of this act.

NEW SECTION. **Sec.**  A new section is added to chapter 43.30 RCW under the subchapter heading "part 5 powers and duties—general" to read as follows:

(1) Prior to acquiring real property in any county after the effective date of this section for purposes of a natural area preserve, natural resources conservation area, or other habitat or riparian protection purposes under chapter 79.70 or 79.71 RCW or RCW 79A.15.120, the department must identify for sale department-owned land in that same county of equal to or greater acreage than the property to be acquired.

(2) The department must dispose of the land identified for sale under subsection (1) of this section as expediently as is reasonably practicable after the relevant real property acquisition. The department must provide monthly updates, consistent with RCW 43.01.036, to the office of financial management and appropriate committees of the senate and house of representatives on the status of the sale process.

**Sec.**  RCW 79.70.030 and 2003 c 334 s 549 are each amended to read as follows:

In order to set aside, preserve, and protect natural areas within the state, the department is authorized, in addition to any other powers, to:

(1) Establish the criteria for selection, acquisition, management, protection, and use of such natural areas, including:

(a) Limiting public access to natural area preserves consistent with the purposes of this chapter. Where appropriate, and on a case-by-case basis, a buffer zone with an increased low level of public access may be created around the environmentally sensitive areas;

(b) Developing a management plan for each designated natural area preserve. The plan must identify the significant resources to be conserved consistent with the purposes of this chapter and identify the areas with potential for low-impact public and environmental educational uses. The plan must specify the types of management activities and public uses that are permitted, consistent with the purposes of this chapter. The department must make the plans available for review and comment by the public, and state, tribal, and local agencies, prior to final approval;

(2) Cooperate or contract with any federal, state, or local governmental agency, private organizations, or individuals in carrying out the purpose of this chapter;

(3) Consistent with the plan and the applicable requirements of section 4 of this act, acquire by gift, devise, purchase, grant, dedication, or means other than eminent domain, the fee or any lesser right or interest in real property which shall be held and managed as a natural area;

(4) Acquire by gift, devise, grant, or donation any personal property to be used in the acquisition and/or management of natural areas;

(5) Inventory existing public, state, and private lands in cooperation with the council to assess possible natural areas to be preserved within the state;

(6) Maintain a natural heritage program to provide assistance in the selection and nomination of areas containing natural heritage resources for registration or dedication. The program shall maintain a classification of natural heritage resources, an inventory of their locations, and a data bank for such information. The department shall cooperate with the department of fish and wildlife in the selection and nomination of areas from the data bank that relate to critical wildlife habitats. Information from the data bank shall be made available to public and private agencies and individuals for environmental assessment and proprietary land management purposes. Usage of the classification, inventory, or data bank of natural heritage resources for any purpose inconsistent with the natural heritage program is not authorized;

(7) Prepare a natural heritage plan which shall govern the natural heritage program in the conduct of activities to create and manage a system of natural areas that includes natural resources conservation areas, and may include areas designated under the research natural area program on federal lands in the state;

(a) The plan shall list the natural heritage resources to be considered for registration and shall provide criteria for the selection and approval of natural areas under this chapter;

(b) The department shall provide opportunities for input, comment, and review to the public, other public agencies, and private groups with special interests in natural heritage resources during preparation of the plan;

(c) Upon approval by the council and adoption by the department, the plan shall be updated and submitted biennially to the appropriate committees of the legislature for their information and review. The plan shall take effect ninety days after the adjournment of the legislative session in which it is submitted unless the reviewing committees suggest changes or reject the plan; and

(8) Maintain a state register of natural areas containing significant natural heritage resources to be called the Washington register of natural area preserves. Selection of natural areas for registration shall be in accordance with criteria listed in the natural heritage plan and accomplished through voluntary agreement between the owner of the natural area and the department. No privately owned lands may be proposed to the council for registration without prior notice to the owner or registered without voluntary consent of the owner. No state or local governmental agency may require such consent as a condition of any permit or approval of or settlement of any civil or criminal proceeding or to penalize any landowner in any way for failure to give, or for withdrawal of, such consent.

(a) The department shall adopt rules as authorized by RCW 43.12.065 and 79.70.030(1) and chapter 34.05 RCW relating to voluntary natural area registration.

(b) After approval by the council, the department may place sites onto the register or remove sites from the register.

(c) The responsibility for management of registered natural area preserves shall be with the preserve owner. A voluntary management agreement may be developed between the department and the owners of the sites on the register.

(d) Any public agency may register lands under provisions of this chapter.

**Sec.**  RCW 79.71.040 and 1987 c 472 s 4 are each amended to read as follows:

The department is authorized to acquire property or less than fee interests in property, as defined by RCW 64.04.130, by all means, except eminent domain, for creating natural resources conservation areas, where the acquisition meets the applicable requirements of section 4 of this act and is the best way to achieve the purposes of this chapter. Areas acquired or assembled by the department for conservation purposes will be designated as "Washington natural resources conservation areas."

NEW SECTION. **Sec.**  A new section is added to chapter 79A.05 RCW to read as follows:

(1) Prior to acquiring real property in any county after the effective date of this section, the commission must identify for sale agency-owned land in that same county of equal to or greater acreage than the property to be acquired.

(2) The commission must dispose of the land identified for sale under subsection (1) of this section as expediently as is reasonably practicable after the relevant real property acquisition. The commission must provide monthly updates, consistent with RCW 43.01.036, to the office of financial management and appropriate committees of the senate and house of representatives on the status of the sale process.

**Sec.**  RCW 79A.05.030 and 2005 c 373 s 1 and 2005 c 360 s 5 are each reenacted and amended to read as follows:

The commission shall:

(1) Have the care, charge, control, and supervision of all parks and parkways acquired or set aside by the state for park or parkway purposes.

(2) Adopt policies, and adopt, issue, and enforce rules pertaining to the use, care, and administration of state parks and parkways. The commission shall cause a copy of the rules to be kept posted in a conspicuous place in every state park to which they are applicable, but failure to post or keep any rule posted shall be no defense to any prosecution for the violation thereof.

(3) Permit the use of state parks and parkways by the public under such rules as shall be adopted.

(4) Clear, drain, grade, seed, and otherwise improve or beautify parks and parkways, and erect structures, buildings, fireplaces, and comfort stations and build and maintain paths, trails, and roadways through or on parks and parkways.

(5) Grant concessions or leases in state parks and parkways, upon such rentals, fees, or percentage of income or profits and for such terms, in no event longer than fifty years, and upon such conditions as shall be approved by the commission: PROVIDED, That leases exceeding a twenty-year term shall require a unanimous vote of the commission: PROVIDED FURTHER, That if, during the term of any concession or lease, it is the opinion of the commission that it would be in the best interest of the state, the commission may, with the consent of the concessionaire or lessee, alter and amend the terms and conditions of such concession or lease: PROVIDED FURTHER, That television station leases shall be subject to the provisions of RCW 79A.05.085, only: PROVIDED FURTHER, That the rates of such concessions or leases shall be renegotiated at five-year intervals. No concession shall be granted which will prevent the public from having free access to the scenic attractions of any park or parkway.

(6) Employ such assistance as it deems necessary. Commission expenses relating to its use of volunteer assistance shall be limited to premiums or assessments for the insurance of volunteers by the department of labor and industries, compensation of staff who assist volunteers, materials and equipment used in authorized volunteer projects, training, reimbursement of volunteer travel as provided in RCW 43.03.050 and 43.03.060, and other reasonable expenses relating to volunteer recognition. The commission, at its discretion, may waive commission fees otherwise applicable to volunteers. The commission shall not use volunteers to replace or supplant classified positions. The use of volunteers may not lead to the elimination of any employees or permanent positions in the bargaining unit.

(7) By majority vote of its authorized membership and consistent with the applicable requirements of section 7 of this act, select and purchase or obtain options upon, lease, or otherwise acquire for and in the name of the state such tracts of land, including shore and tide lands, for park and parkway purposes as it deems proper. If the commission cannot acquire any tract at a price it deems reasonable, it may, by majority vote of its authorized membership, obtain title thereto, or any part thereof, by condemnation proceedings conducted by the attorney general as provided for the condemnation of rights-of-way for state highways. Option agreements executed under authority of this subsection shall be valid only if:

(a) The cost of the option agreement does not exceed one dollar; and

(b) Moneys used for the purchase of the option agreement are from (i) funds appropriated therefor, or (ii) funds appropriated for undesignated land acquisitions, or (iii) funds deemed by the commission to be in excess of the amount necessary for the purposes for which they were appropriated; and

(c) The maximum amount payable for the property upon exercise of the option does not exceed the appraised value of the property.

(8) Cooperate with the United States, or any county or city of this state, in any matter pertaining to the acquisition, development, redevelopment, renovation, care, control, or supervision of any park or parkway, and enter into contracts in writing to that end. All parks or parkways, to which the state contributed or in whose care, control, or supervision the state participated pursuant to the provisions of this section, shall be governed by the provisions hereof.

(9) Within allowable resources, maintain policies that increase the number of people who have access to free or low-cost recreational opportunities for physical activity, including noncompetitive physical activity.

(10) Adopt rules establishing the requirements for a criminal history record information search for the following: Job applicants, volunteers, and independent contractors who have unsupervised access to children or vulnerable adults, or who will be responsible for collecting or disbursing cash or processing credit/debit card transactions. These background checks will be done through the Washington state patrol criminal identification section and may include a national check from the federal bureau of investigation, which shall be through the submission of fingerprints. A permanent employee of the commission, employed as of July 24, 2005, is exempt from the provisions of this subsection.

**Sec.**  RCW 79A.05.095 and 1999 c 249 s 901 are each amended to read as follows:

The commission may, consistent with the applicable requirements of section 7 of this act, receive and accept donations of lands for state park purposes, and shall be responsible for the management and control of all lands so acquired. It may from time to time recommend to the legislature the acquisition of lands for park purposes by purchase or condemnation.

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