

**HB 1983 - S AMD 1219**

By Senator Van De Wege

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 77.12.037 and 2000 c 107 s 4 are each amended to  
4 read as follows:

5 (1) The commission may acquire by gift, easement, purchase,  
6 lease, or condemnation lands, buildings, water rights, rights-of-way,  
7 or other necessary property, and construct and maintain necessary  
8 facilities for purposes consistent with this title. The commission  
9 may authorize the director to acquire property under this section,  
10 but the power of condemnation may only be exercised by the director  
11 when an appropriation has been made by the legislature for the  
12 acquisition of a specific property, except to clear title and acquire  
13 access rights-of-way.

14 (2) The department has the authority to manage acquired lands  
15 using the best available land management techniques, and shall  
16 develop mitigation actions where appropriate. These techniques may  
17 include, but are not limited to:

18 (a) Issuance of new grazing leases covering a section of land or  
19 less and issuance of grazing leases for land that has been subject to  
20 a grazing lease within the previous ten years;

21 (b) Licenses or approvals to remove firewood;

22 (c) Issuance of leases for brush picking;

23 (d) Periodic use of chemical or mechanical means to maintain  
24 public and recreational land, as long as the chemicals used are  
25 approved by the Washington state department of agriculture and  
26 applied by licensed personnel in watersheds that are not controlled  
27 for the purpose of drinking water quality; and

28 (e) Issuance of rights-of-way, easements, and use permits to use  
29 existing roads in nonresidential areas.

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

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 43.21C  
2    RCW to read as follows:

3        The use of, or planning for, the specific natural resource  
4    management activities of the department of fish and wildlife in RCW  
5    77.12.037(2) are not subject to the requirements of RCW 43.21C.031.

6        **Sec. 3.**    RCW 79.13.420 and 2017 c 56 s 1 are each amended to read  
7    as follows:

8        (1) For the purposes of this section, "nondefault or early  
9    termination provision" means a provision that authorizes the  
10   department to terminate a lease in the event the department includes  
11   the leased land in a plan for higher and better use, land exchange,  
12   or sale.

13        (2) Any nondefault or early termination provision included in a  
14   state land lease for agricultural or grazing purposes must:

15        (a) Require advance written notice of at least one hundred eighty  
16   days by the department to the lessee prior to termination of the  
17   lease; and

18        (b) Require the department to provide to the lessee, along with  
19   the notice under (a) of this subsection, written documentation  
20   demonstrating that the department has included the leased land in a  
21   plan for higher and better use, land exchange, or sale.

22        (3) This section does not require the department to include a  
23   nondefault or early termination provision in any state land lease for  
24   agricultural or grazing purposes.

25        (4) This section does not prohibit the department from allowing  
26   the lessee to surrender the leasehold subject to terms provided in  
27   the lease.

28        (5) This section does not prohibit the department from executing  
29   other lease provisions designed to protect the interests of the  
30   lessee in the event that the lease is terminated under a nondefault  
31   or early termination provision.

32        (6) In the event that the department exercises a nondefault or  
33   early termination provision in a state land lease for agricultural or  
34   grazing purposes, the department shall compensate the lessee  
35   according to the following schedule:

36        (a) For grazing leases, the department shall pay to the lessee  
37   the annual rent for the land subject to the lease, multiplied by a  
38   factor of six, except that the department need not compensate the

1 lessee for any years that are specifically designated in the lease as  
2 nongrazing years.

3 (b) For agricultural leases, the department shall pay to the  
4 lessee the expected net return the lessee would have realized from  
5 crops raised on the leased land, which must be calculated according  
6 to the following formula: The annual net revenue per acre for the  
7 class of crop produced by the lessee, less the rental rate per acre  
8 for the land leased by the lessee; multiplied by the number of acres  
9 leased by the lessee. For purposes of this subsection, the annual net  
10 revenue per acre for a class of crop must be calculated according to  
11 the most recent rolling average annual net rental return per acre for  
12 that class of crop as established by the county assessor of the  
13 county in which the leased land is located or, if the county assessor  
14 of the county in which the land is located has not established an  
15 annual net rental return per acre, as established by the county  
16 assessor of the nearest county in which the county assessor has  
17 established such an annual net rental return per acre. The annual net  
18 rental return per acre, as established by the county assessor, must  
19 be adjusted to reflect the total annual net revenue per acre.

20 (c) For both grazing leases and agricultural leases, the  
21 department shall make payments to the lessee on an annual basis for  
22 the remaining term of the terminated lease, unless the department and  
23 the lessee agree to an alternate schedule of payments. In the event  
24 that payments are made on any schedule other than on an annual basis,  
25 any advance payments must be subjected to an appropriate discount  
26 rate in order to reflect the net present value of the compensation  
27 owed by the department.

28 (d) For both grazing leases and agricultural leases, in the event  
29 that the lessee has placed any improvements, as authorized under RCW  
30 79.13.050, on the land that is subject to the lease, the department  
31 is responsible for compensating the lessee for the value of the  
32 improvements. In the event that an agreement cannot be reached  
33 between the state and the lessee on the fair market value of the  
34 improvements, the valuation must be determined as prescribed under  
35 RCW 79.13.160.

36 (7) In the event that the department's exercise of a nondefault  
37 or early termination provision in a state land lease for agricultural  
38 or grazing purposes results in the removal of fencing from the land  
39 subject to the lease, the department is responsible for ensuring the  
40 replacement of any removed fencing.

1       (8) In the event that the department's exercise of a nondefault  
2 or early termination provision in a state land lease for agricultural  
3 or grazing purposes causes the lessee to incur a financial penalty as  
4 a result of an early withdrawal from a natural resources conservation  
5 service program, the department is responsible for reimbursing the  
6 lessee for payment of the financial penalty.

7       (9) The compensation and reimbursement available to a lessee  
8 under subsections (6) and (8) of this section, respectively, is the  
9 sole financial remedy available to the lessee based on the  
10 department's exercise of a nondefault or early termination provision  
11 in an agriculture or grazing lease. Appeal rights under RCW 79.02.030  
12 are unaffected by the relief provided in this section."

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13       On page 1, line 1 of the title, after "activities;" strike the  
14 remainder of the title and insert "amending RCW 77.12.037 and  
15 79.13.420; and adding a new section to chapter 43.21C RCW."

EFFECT: Specifies that, for the Department of Fish and Wildlife, the issuance of new grazing leases covering a section of land or less or the issuance of a grazing lease for land that has been subject to a lease within the previous 10 years are natural resource management activities exempt from the requirements to prepare an environmental impact statement under the State Environmental Policy Act. Requires the Department of Natural Resources (DNR) to compensate agricultural or grazing lessees in the event that DNR exercises a nondefault or early termination provision in a state land lease for agricultural or grazing purposes. Establishes compensation formulas for agricultural leases and for grazing leases. Creates certain additional obligations for DNR in the event that DNR exercises a nondefault or early termination provision in a state land lease for agricultural or grazing purposes.

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