AN ACT Relating to the participation of tribal governments in exchange agreements; and amending RCW 47.12.370.

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

Sec. 1. RCW 47.12.370 and 2021 c 333 s 707 are each amended to read as follows:

(1) The department may enter into exchange agreements with local, state, or federal agencies, tribal governments, or private nonprofit nature conservancy corporations as defined in RCW 64.04.130, to convey properties under the jurisdiction of the department that serve as environmental mitigation sites, as full or part consideration for the grantee assuming all future maintenance and operation obligations and costs required to maintain and operate the environmental mitigation site in perpetuity.

(2) Except as provided in (b) of this subsection, tribal governments shall only be eligible to participate in an exchange agreement if they:

(i) Provide the department with a valid waiver of their tribal sovereign immunity from suit. The waiver must allow the department to enforce the terms of the exchange agreement or quitclaim deed in state court; and
(ii) Agree that the property shall not be placed into trust status.

(b) During the 2021-2023 fiscal biennium, the restrictions in (a) of this subsection do not apply to any exchange agreement with a tribal government for the acquisition of real property required by the department for the SR 167/SR 509 Puget Sound Gateway project.

(3) The conveyances must be by quitclaim deed, or other form of conveyance, executed by the secretary of transportation, and must expressly restrict the use of the property to a mitigation site consistent with preservation of the functions and values of the site, and must provide for the automatic reversion to the department if the property is not used as a mitigation site or is not maintained in a manner that complies with applicable permits, laws, and regulations pertaining to the maintenance and operation of the mitigation site.

--- END ---