
Transportation Committee

HB 2491

Brief Description: Modifying allowable terms for the lease of unused highway land.

Sponsors: Representative Fey.

Brief Summary of Bill

- Authorizes the Washington State Department of Transportation to offset economic rent due, at its discretion, for the lease of surplus property for social, environmental, or economic benefits provided by the lessee when a public agency or community-based non-profit organization uses the property for housing and ancillary improvements, parks, enhanced public spaces, or public recreation.

Hearing Date: 2/1/24

Staff: Jennifer Harris (786-7143).

Background:

Sale or Exchange of Department of Transportation Surplus Property.

When the Washington State Department of Transportation (WSDOT) determines that land it owns is no longer required for transportation purposes, and if it would be in the public interest to do so, the WSDOT may sell or exchange the property in full or part consideration for land or building improvements or for construction of highway improvements at fair market value to any person through the solicitation of written bids through public advertising as prescribed by state law. This sale must be made through a public auction, with appropriate notice given, or through the solicitation of written bids. The WSDOT may also sell the property for fair market value to certain other specified entities.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

The WSDOT may also transfer unused state-owned real property property to other government entities when, in the judgment of the Secretary of Transportation and the Attorney General, the transfer is consistent with the public interest. Any revenue received by the WSDOT must be deposited in the Motor Vehicle Fund.

Lease of Unused Highway Land or Air Space.

The WSDOT may rent or lease any lands, improvements, or air space above or below lands held for highway purposes that are not needed at the time of rental or lease.

The rental or lease:

1. must be on terms and conditions determined by the WSDOT;
2. is subject to zoning requirements that apply;
3. includes lands used or to be used for limited access and conventional highways if they are not needed for the period of rental or lease; and
4. in the case of bus shelters, provided by a local transit authority that include commercial advertising, may charge the transit authority only for commercial space.

All funds paid to the state for rental or lease of the WSDOT lands, improvements, or air space, must be deposited in the WSDOT's Advance Right-of-Way Revolving Fund, except funds that are subject to federal aid reimbursement and funds received from the rental of capital facility properties, which must be deposited in the Motor Vehicle Fund.

Limited Property Lease Authorization.

The WSDOT may establish a limited project for community purposes to address past impacts to historically marginalized populations within impacted local communities resulting from the construction of Interstate 90 (I-90) and the US 395 North Spokane Corridor project. The limited project must be consistent with restrictions that apply to the WSDOT's ability to rent or lease lands, improvements, and air space.

The WSDOT may lease property eligible for lease, which includes the property that was purchased as part of the I-90 corridor project and the US 395 North Spokane Corridor, to a community-based nonprofit corporation or to the Department of Commerce, to be used for the following community purposes:

- housing and ancillary improvements;
- parks;
- community revitalization projects;
- enhanced public spaces, such as trails and public plazas; and
- projects that provide enhanced economic development in the impacted community.

The lease for this limited project may be for less than fair market rent. However, the lease

agreement must require the lessee to maintain the premises as part of the consideration provided to the WSDOT by the lessee. A sublease of the lease authorized is not intended to generate exorbitant profits.

The limited project may not be construed as precedent for future lease agreements of WSDOT property in other areas of the state, nor does this authorization preclude the WSDOT from leasing property in other areas of the state for economic rent.

Transfer or Lease of State or Local Agency Property.

Any state, municipality, or political subdivision with authority to dispose of surplus property may transfer or lease property to any public, private, or nongovernmental body on any terms, including a no-cost transfer, if the property is used for a public benefit. Public benefit means affordable housing and related facilities for households at or below 80 percent of the local median income adjusted for household size. Such a transfer must include a requirement that the property will be used for a designated public benefit, as well as remedies if the property is not used for the designated purpose. Government entities using the authority to dispose of public property must enact rules to do so.

Federal Aid Highways and Federal Restrictions.

Under federal regulation, current fair market value must be charged for the use or disposal of property a state acquires with federal aid highway funding, subject to certain exceptions. The term "fair market value" in this context is defined by state statutes and/or court decisions. Exceptions to the requirement for charging fair market value must be submitted in writing to the Federal Highway Administration.

When a grantee shows that an exception to the fair market value requirement is in the overall public interest based on social, environmental, or economic benefits, and a method is provided for ensuring that the public will receive the benefit used to justify the less than fair market value disposal, an exception may be granted.

Summary of Bill:

The WSDOT may offset economic rent due for the lease of surplus property when a public agency or community-based non-profit organization uses the property for community purposes. The economic rent due may be offset for social, environmental, or economic benefits provided by the leasing entity.

"Community purposes" means housing and ancillary improvements, parks, enhanced public spaces, or public recreation.

Appropriation: None.

Fiscal Note: Requested on January 31, 2024.

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