

# SENATE BILL REPORT

## SB 5785

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As of January 11, 2024

**Title:** An act relating to department of fish and wildlife authority with regard to certain nonprofit and volunteer organizations.

**Brief Description:** Concerning department of fish and wildlife authority with regard to certain nonprofit and volunteer organizations.

**Sponsors:** Senators Warnick, Shewmake, Liias, Mullet, Nobles, Saldaña and Van De Wege; by request of Department of Fish and Wildlife.

**Brief History:**

**Committee Activity:** Agriculture, Water, Natural Resources & Parks: 1/11/24.

**Brief Summary of Bill**

- Authorizes the Washington Department of Fish and Wildlife to enter into cooperative agreements with any public agency, nonprofit, or volunteer organization to carry out activities benefitting department managed lands.

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### SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

**Staff:** Jeff Olsen (786-7428)

**Background:** The Washington Department of Fish and Wildlife (WDFW) serves as manager of the state's fish and wildlife resources. As a part of its mandate to protect and preserve the state's fish and wildlife resources while providing recreational and commercial opportunities, WDFW may acquire and manage state lands. WDFW currently owns or manages more than 1 million acres, including 33 wildlife areas and more than 450 water access areas.

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*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.*

In 2013, the Legislature adopted legislation providing specific authority for the Department of Natural Resources (DNR) to enter into agreements with nonprofit and volunteer groups to assist DNR with implementing its multiple use mandates, compliance with local ordinances, and the fostering of aquatic lands uses. Under the legislation, DNR may utilize the services of these groups to plan, construct, and operate recreational areas, trails, and facilities for educational, scientific, or experimental purposes or for other purposes that provide a benefit to lands managed by DNR.

Under Washington tort law, landowners generally owe persons invited to enter their land a duty to use ordinary care to keep that land in a reasonably safe condition. This includes an affirmative duty to inspect the premises and discover dangerous conditions. The Legislature modified this general rule through what is known as the Recreational Use Immunity statute. The Recreational Use Immunity statute generally provides protection from tort liability for landowners who allow public use of their lands and do not charge a fee.

**Summary of Bill:** WDFW may enter into cooperative agreements with public agencies, nonprofit organizations, volunteers, and volunteer organizations to conduct restoration and enhancement services on lands managed by WDFW. Specific activities may include planning, constructing, improving, and operation of conservation areas, recreational sites, roads, and trails. Nonprofit organization means any organization described in section 501(c)(3) of the Federal Internal Revenue Code or a not-for-profit organization organized and conducted for public benefit and operated primarily for charitable, civic, educational, religious, welfare, or health purposes.

Whenever volunteers or volunteer organizations are authorized to perform activities or carry out projects, they may not be considered employees or agents of WDFW and WDFW is not subject to any liability arising out of volunteer activities or projects. The liability of WDFW to volunteers and members of the volunteer organizations is limited in the same manner as provided for in the Recreational Use Immunity statute.

WDFW may receive gifts of personal property, services, or other items of value to help fund their restoration and land management activities and as consideration for entering into a cooperative agreement.

**Appropriation:** None.

**Fiscal Note:** Requested on January 7, 2024.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: Many nonprofit organizations that use WDFW lands, such as the Back Country Horsemen, volunteer to maintain those facilities

and lands. Cooperative agreements with land managers make it easier to plan and permit volunteer activities, and these agreements are already in use with other natural resource agencies. The changes in this bill make it easier for the WDFW to work with nonprofit and volunteer organizations and would allow limited funds to maintain department lands and facilities to go further.

**Persons Testifying:** PRO: Senator Judy Warnick, Prime Sponsor; Tom McBride, WDFW; Nicky Pasi, Mountains to Sound Greenway Trust.

**Persons Signed In To Testify But Not Testifying:** No one.