CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1774

Chapter 298, Laws of 2025

69th Legislature
2025 Regular Session

UNUSED HIGHWAY LAND—LEASE AGREEMENTS—COMMUNITY PURPOSES

EFFECTIVE DATE: July 27, 2025

Passed by the House April 22, 2025
Yeas 67 Nays 30

LAURIE JINKINS

Speaker of the House of Representatives

Passed by the Senate April 15, 2025
Yeas 29 Nays 19

DENNY HECK

President of the Senate

Approved May 17, 2025 11:15 AM

BOB FERGUSON

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1774** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 19, 2025

Secretary of State
State of Washington

SUBSTITUTE HOUSE BILL 1774

AS AMENDED BY THE SENATE

Passed Legislature - 2025 Regular Session

State of Washington 69th Legislature 2025 Regular Session

By House Transportation (originally sponsored by Representatives Fey, Parshley, Ramel, Wylie, Paul, Peterson, Bronoske, Reed, Doglio, Taylor, Ryu, Gregerson, Fosse, Ormsby, Nance, Springer, Zahn, Morgan, Macri, Hill, Obras, Leavitt, and Thomas)

READ FIRST TIME 02/21/25.

AN ACT Relating to modifying allowable terms for the lease of unused highway land; amending RCW 47.12.120; and creating a new section.

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

NEW SECTION. **Sec. 1.** The legislature recognizes that certain property owned by the state of Washington under the jurisdiction of the department of transportation that is not presently needed for highway purposes could be used to serve pressing community purposes. The legislature believes that the department should be enabled to execute lease agreements with governmental entities and nonprofit organizations that can help serve these community purposes using lease terms that take into account the community benefit these leases will provide. Therefore, the legislature is establishing a framework for the department to use in developing lease agreements in this context. The legislature intends for the department to consider the authorization of these lease agreements urgent in light of the compelling needs that can be served by the leasing of certain properties under the jurisdiction of the department, and encourages the department to move forward developing the lease agreements it determines are appropriate, based on the factors provided below, as expeditiously as possible.

Sec. 2. RCW 47.12.120 and 2022 c 59 s 1 are each amended to read as follows:

The department may rent or lease any lands, improvements, or air space above or below any lands that are held for highway purposes but are not presently needed. The rental or lease:

(1) Must be upon such terms and conditions as the department may determine;

(2) Is subject to the provisions and requirements of zoning ordinances of political subdivisions of government;

(3) Includes lands used or to be used for both limited access and conventional highways that otherwise meet the requirements of this section;

(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; ((~~and~~))

(5) In the case of the project for community purposes established in RCW 47.12.380, must be consistent with the provisions of that section; and

(6)(a)(i) In the case of a lease agreement with a public agency, special purpose district, federally recognized tribe, state historical society under chapter 27.34 RCW, or community-based nonprofit organization, the department's process for determining adequate consideration for renting or leasing lands, improvements, or air space, may incorporate identified social, environmental, or economic benefits to be provided by the lessee for community purposes as a component of the consideration to be provided by the lessee when the use of the property by the lessee is for a community purpose. Use of this methodology is at the department's discretion. The following factors shall be considered by the department in its evaluation of a potential lease agreement under this methodology:

(A) The extent to which the community purpose will benefit overburdened communities and vulnerable populations, as these terms are defined in RCW 70A.02.010;

(B) The benefit of the community purpose to a broad number of members of the public;

(C) The likelihood that, during the term of the potential lease agreement being considered, the property has practical and economically feasible uses for which the department could obtain economic rent during this period; and

(D) The lessee's qualifications to perform the community purpose and to fulfill its terms of the lease agreement, through consideration of factors that include, but are not limited to, the lessee's prior performance related to the community purpose and the financial feasibility of the lessee performing the obligations required under the lease agreement.

(ii)(A) To the extent the department finds all or a portion of costs associated with the leasing process to be undertaken for community purpose projects identified under this subsection (6) cannot reasonably be assumed by the lessee, the department may use funds specifically appropriated for this purpose for these costs.

(B) To the extent specifically appropriated funds are unavailable, the department shall include a budget request to the legislature during the next legislative session for sufficient funds the department determines are necessary to complete a leasing process under (a)(ii)(A) of this subsection.

(b) As part of the consideration to the department, a lease agreement under (a) of this subsection must require the lessee to maintain and secure the premises.

(c) A lease agreement under (a) of this subsection must include:

(i) A requirement that the use of the premises shall be limited to the designated community purposes;

(ii) Remedies that apply if the lessee of the property fails to use it for the designated community purposes or ceases to use it for these purposes;

(iii) To the extent applicable, a requirement that the lessee assumes liability for the lessee's uses of the property to which the requirements of 23 U.S.C. Sec. 138 and 49 U.S.C. Sec. 303, commonly known as section 4(f) of the department of transportation act of 1966, or 54 U.S.C. Sec. 200305, commonly known as section 6(f) of the land and water conservation fund act of 1965, apply; and

(iv) Evidence of commercial or self-insurance at levels deemed sufficient by the department, as well as appropriate indemnification.

(d) Leases under this subsection (6) may not be undertaken by the department for the community purposes described in (g)(i)(A) or (B) of this subsection (6) on the right-of-way of a state highway or in places that would place infrastructure or the traveling public in jeopardy.

(e) The department must provide an annual report to the transportation committees of the legislature by December 1st of each

year with information on the active lease agreements authorized under this subsection, including the community purposes being served and a summary of relevant lease terms.

(f) In the case of a lease agreement with a community-based nonprofit organization, the proposed lease must first be presented to the transportation committees of the legislature as part of the department's budget submittal and then approved in an omnibus transportation appropriations act. However, this subsection (6)(f) does not apply to lease agreements regarding the temporary use of department property. For purposes of this subsection (6)(f), "temporary use" means lease agreements lasting no longer than five years in duration, inclusive of lease renewals.

(g) For the purposes of this subsection (6):

(i) "Community purposes" means providing one or more of the following for public benefit purposes:

(A) Housing, housing assistance, and related services;

(B) Shelter programs including, but not limited to, indoor emergency shelters; transitional housing; emergency housing; supportive housing; and safe spaces, such as tiny home villages, pallet home villages, and recreational vehicle lots;

(C) Parks;

(D) Enhanced public spaces including, but not limited to, public plazas;

(E) Public recreation;

(F) Salmon habitat restoration, defined as the process of repairing, enhancing, or recreating natural environments that support salmon populations; or

(G) Public transportation uses.

(ii)(A) "Adequate consideration" means consideration that is comprised of:

(I) The performance of activities that fulfill the community purpose designated in the lease agreement;

(II) Maintenance and security of the premises to be provided under the lease agreement; and

(III) May include additional monetary or nonmonetary consideration as provided in (g)(ii)(B) of this subsection.

(B) The department may require additional monetary or nonmonetary consideration be provided to the extent it determines that consideration to be provided under (g)(ii)(A)(I) and (II) of this

subsection are insufficient consideration for use of the property and that additional consideration is necessary.

Passed by the House April 22, 2025.
Passed by the Senate April 15, 2025.
Approved by the Governor May 17, 2025.
Filed in Office of Secretary of State May 19, 2025.

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