
Capital Budget Committee

HB 1262

Brief Description: Creating a task force to examine land ownership by the federal government in Washington.

Sponsors: Representatives Blake, Takko, Kretz, Springer, Short, Lytton, Wilcox, Pike, Reykdal, Haler, McCaslin and Buys.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Establishes a legislative task force to study the risks, options and benefits of transferring federal lands in Washington to an alternative ownership.
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Hearing Date: 2/3/15

Staff: Meg VanSchoorl (786-7105) and Kristen Fraser (786-7148).

Background:

Enabling Act.

In February 1889 Congress passed an Enabling Act to authorize the admission of Washington and three other states to the Union "on an equal footing with the original states." Among other things, the Enabling Act granted lands to Washington for common schools and other educational and state purposes. The Enabling Act also stated that Washington would receive a portion of proceeds from land sold by the United States after Washington's admission to statehood:

Sec. 13. That five per centum of the proceeds of the sales of public lands lying within said States which shall be sold by the United States subsequent to the admission of said States into the Union, after deducting all the expenses incident to the same, shall be paid to the said States, to be used as a permanent fund, the interest of which only shall be expended for the support of common schools within said States, respectively.

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

In addition, the Enabling Act required the state constitutional conventions to agree to certain conditions under "ordinances irrevocable without the consent of the United States and the people of said States." One of these conditions was that the people of Washington disclaim rights to "unappropriated public lands," with such lands being "subject to the disposition of the United States" until sold by the United States:

Sec. 4. That the people inhabiting said proposed States do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof. . . .and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States[.]

State Constitution.

Ratified by Washington's voters in November of 1889, the state Constitution contains a number of provisions that reflect the requirements of the Enabling Act, including creation of permanent funds for the lands granted by the U.S. to the state for schools and other educational and state purposes.

The Constitution also includes Article XXVI, "Compact with the United States," a section expressly declaring a compact with the United States under the terms of the Enabling Act. This section replicates the language of Section 4 of the Enabling Act by disclaiming the title to "unappropriated public lands" and agreeing that these lands are subject to the disposition of the United States.

Public Lands in Washington.

According to the Washington Public Lands Inventory (Washington State Recreation and Conservation Office, July 2014), the land area of Washington totals nearly 46 million acres. Non-public ownership is about 57 percent of the total (26 million acres) with the remaining 43 percent (20 million acres) in public ownership. Of the publicly-owned acreage, 12.7 million acres is owned by the federal government, 6.5 million acres by the state, and the balance by local governments.

According to the Federal Land Ownership: Overview and Data Report (Congressional Research Service, February 2012), the majority of Washington land in federal ownership is managed by the U.S. Forest Service (76 percent); the National Park Service (15 percent); the Department of Defense (3.6 percent); the Bureau of Land Management (3.6 percent); and the Fish and Wildlife Service (1.5 percent).

The management of land owned in the name of the state has been delegated to a number of state agencies and universities. The management approach for the land is generally determined by the jurisdiction, authorities and priorities of the agency. The Department of Natural Resources (DNR), the Department of Fish and Wildlife (WDFW), and the State Parks and Recreation Commission (Parks) are three agencies that manage many acres of undeveloped public lands in the state. Each of these agencies implement different management goals. The DNR is primarily responsible for managing land in a manner that satisfies its fiduciary duty to the various state trust beneficiaries, the WDFW manages land to enhance wildlife habitat and hunting access, and

Parks primarily provides recreational access. The largest number of acres, 5.6 million, is managed by the DNR.

Summary of Bill:

Findings.

The Legislature finds:

- The federal government owns forest lands totaling nearly 28 percent of all land in Washington and this percentage is not equitably distributed among the counties.
- Federal land ownership creates financial burdens for local governments.
- Federal land management does not meet modern land management standards.
- The state government has a responsible record of land ownership.
- Legitimate questions have been raised about the Organic Acts conferring statehood and federal government obligations to return certain lands to the state.
- It is appropriate to study the risks and benefits of transferring federal lands to an alternative ownership.

Legislative Task Force on the Transfer of Federal Lands.

A legislative task force on the transfer of federal lands (Task Force) is created. The Task Force is to study the risks, options and benefits of transferring federal lands in Washington to an alternative ownership.

Membership. Twelve members are specified as follows:

- two members appointed by the Speaker (Speaker) of the House of Representatives (House), one from each of the two largest House caucuses;
- two members appointed by the President (President) of the Senate (Senate), one from each of the two largest Senate caucuses;
- two members appointed jointly by the Speaker and the President, both representing counties with significant federal land ownership, one east and one west of the crest of the Cascade mountains;
- two members appointed jointly by the Speaker and the President, one representing conservation interests and one representing ranching or agricultural interests;
- two members appointed by the Governor, one representing the Governor's office and one representing the Department of Fish and Wildlife;

- one member appointed by the Commissioner of Public Lands representing the Department of Natural Resources; and
- one member appointed by the Attorney General representing the Attorney General's Office.

In addition, the Speaker and the President must jointly invite tribal participation on the task force, either at a full membership level or at any lesser participation level requested by the tribal invitees.

Responsibilities. The Task Force must:

- review and document facts about federal land management in the state;
- compare the environmental outcomes of federal and state land management;
- review risks and benefits of transferring federal forest service lands to alternative ownerships, such as state, counties, Indian tribes, not-for-profit land management organizations, or a combination; and
- recommend whether the state should continue to investigate options and pursue a transfer of ownership.

The Task Force may not consider or include in its recommendations options that would transfer state or federal public lands into private ownership or transfer wilderness areas, national parks, or military installations out of federal ownership.

The Task Force may use metrics of its choice, but should, to the degree possible, rely on other states' completed analyses and processes. The Task Force should consider whether coordinating with other states exploring federal ownership divestiture would be a strategic advantage.

The Task Force must report findings and recommendations, if any, in the form of draft legislation or a formal budget request, to the Governor and appropriate legislative committees by October 31, 2016. The section expires July 1, 2017.

Staffing and Expenses. Staffing must be provided by the House Office of Program Research and the Senate Committee Services, with assistance of staff, upon Task Force request, from the Governor's office and state agencies. Task Force expenses must be paid jointly by the House and the Senate. Legislative members must be reimbursed for travel expenses and non-legislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses.

Appropriation: None.

Fiscal Note: Not requested.

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