
HOUSE BILL 2151

State of Washington

63rd Legislature

2014 Regular Session

By Representative Blake

Prefiled 01/06/14.

1 AN ACT Relating to recreational trails; amending RCW 78.44.131,
2 79.10.120, 79.10.130, and 79A.15.070; reenacting and amending RCW
3 79A.05.030; adding a new section to chapter 79A.80 RCW; adding a new
4 section to chapter 35.21 RCW; adding a new section to chapter 35A.21
5 RCW; adding a new section to chapter 36.01 RCW; adding a new section to
6 chapter 77.12 RCW; creating new sections; and providing an expiration
7 date.

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

9 NEW SECTION. **Sec. 1.** The legislature finds that the citizens of
10 the state will benefit from a coordinated state-led effort to plan
11 recreational trails that are accessible by the greatest number of
12 people and are constructed to common sense standards that are
13 consistent statewide. The legislature further finds that these goals
14 can be met by removing local control over standards, recognizing trails
15 as the temporary structures that they are and thereby eliminating
16 public controversy and user conflicts when they are built and
17 maintained, establishing a respected system or process that allows for
18 public involvement in both the creation and development of trails, and
19 establishing a staffing balance that consists of those who have shared

1 experience with the public in their field of recreation so as to
2 eliminate unnecessary extra costs and establish guidelines for trail
3 design, development, construction, usage, and competitive use.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 79A.80 RCW
5 to read as follows:

6 (1) Each agency must develop and implement an official recreational
7 trail policy applicable to that agency that is consistent with this
8 section and the management mandate of the agency.

9 (2)(a) A recreational trail policy developed by an agency under
10 this section must consider a recreational trail to be a temporary use
11 of the land it is situated upon and the impacts on soils as part of the
12 soil use and not damage to the forest floor or other resource. As
13 such, recreational trails should be developed and managed in a manner
14 that ensures the lowest construction and maintenance costs by requiring
15 the least amount of manufacturing, introduction of new materials, and
16 dirt displacement, removal, and disturbance while emphasizing water and
17 sediment delivery to the forest floor as frequently as possible. When
18 possible, the agencies should use trail standards developed by the
19 United States forest service as primary guidelines for trail
20 construction and maintenance.

21 (b) Trails developed and maintained consistent with a recreational
22 trail policy developed under this section must be consistent with
23 chapter 77.55 RCW and all rules administered by the department of
24 ecology. However, except as otherwise provided in sections 3, 4, and
25 5 of this act, the trails are not subject to any regulations or
26 policies administered by a city, county, or other form of local
27 government.

28 (c) When developing a recreational trail system, an agency must
29 attempt to incorporate all appropriate established and user-built
30 trails. An agency must also give priority use for recreational trail
31 development on any former mining site located on land managed by the
32 agency.

33 (3)(a) A recreational trail policy developed by an agency under
34 this section must also include guidelines for the use of the trails,
35 including guidelines for organized trail events and competitions.
36 These guidelines must promote the influx of local tourism, consider the

1 use of supplemental trails, provide protection from overuse, utilize
2 volunteers for trail maintenance, and contain a promotional and public
3 outreach element.

4 (b) The use guidelines must allow for appropriate organized group
5 events and competitions on the trails. Organized group competitions
6 must be limited to no more than four events per permitted area. All
7 group organizers must carry event insurance, share revenue information
8 for the event with the applicable agency, and be responsible for
9 maintenance and restoration following the event. The group organizers
10 must share event revenue with the host agency based on a gate fee for
11 the event set at a rate of between fifty and sixty percent of the
12 event's gate fee.

13 (4)(a) Each agency must regularly hold community public forums in
14 areas where trails exist or are proposed. The purpose of the forums is
15 to allow members of the local community to share concerns and ideas or
16 organize themselves for volunteer trail maintenance.

17 (b)(i) In addition to the public forums, each trail area must be
18 assigned one volunteer support and design team. Each volunteer support
19 and design team is comprised of five individuals assigned by the
20 implementing agency representing different trail user group types.
21 Each volunteer support and design team member must be able to document
22 at least five years of continued participation in their assigned user
23 activity. Each area that is under construction or consideration for
24 recreation must have a separate team with no one person serving on more
25 than two teams at any given time.

26 (ii) The agencies must use the volunteer support and design teams
27 to provide information as to the public's desired uses of the trails
28 and must give deference to the teams' construction recommendations.

29 (5) A recreational trail policy developed by an agency under this
30 section must provide for each agency to enter into a hold harmless
31 agreement with all volunteers coordinating with the agency under the
32 policy. The hold harmless agreement must allow for the use of all
33 equipment that volunteers bring for use and include signed statements
34 by the volunteers as to their stated qualifications for using the
35 equipment. The agreements must disclose all limitations on protection
36 and workplace insurance if an accident occurs.

37 (6) The agencies may implement all of, or any part of, this section

1 together and jointly if they decide that interagency cooperation allows
2 the full implementation of this section at a lower cost.

3 NEW SECTION. **Sec. 3.** A new section is added to chapter 35.21 RCW
4 to read as follows:

5 No regulation or policy adopted by a city may be applied to or
6 enforced against a trail developed or maintained consistent with
7 section 2 of this act except that a regulation or policy may apply to
8 parking lots, trail heads, sanitation facilities, and permanent
9 structures. A city may not classify a trail as a permanent structure.

10 NEW SECTION. **Sec. 4.** A new section is added to chapter 35A.21 RCW
11 to read as follows:

12 No regulation or policy adopted by a code city may be applied to or
13 enforced against a trail developed or maintained consistent with
14 section 2 of this act except that a regulation or policy may apply to
15 parking lots, trail heads, sanitation facilities, and permanent
16 structures. A code city may not classify a trail as a permanent
17 structure.

18 NEW SECTION. **Sec. 5.** A new section is added to chapter 36.01 RCW
19 to read as follows:

20 No regulation or policy adopted by a county may be applied to or
21 enforced against a trail developed or maintained consistent with
22 section 2 of this act except that a regulation or policy may apply to
23 parking lots, trail heads, sanitation facilities, and permanent
24 structures. A county may not classify a trail as a permanent
25 structure.

26 **Sec. 6.** RCW 78.44.131 and 1994 c 232 s 24 are each amended to read
27 as follows:

28 (1) The need for, and the practicability of, reclamation shall
29 control the type and degree of reclamation in any specific instance.
30 However, the basic objective of reclamation is to reestablish on a
31 continuing basis the vegetative cover, slope stability, water
32 conditions, and safety conditions suitable to the proposed subsequent
33 use consistent with local land use plans for the surface mine site.

1 When applicable and consistent with this basic objective, a priority
2 use of reclaimed surface mine sites is to host recreational trails
3 developed consistent with section 2 of this act.

4 (2) Each permit holder shall comply with the minimum reclamation
5 standards in effect on the date the permit was issued and any
6 additional reclamation standards set forth in the approved reclamation
7 plan. The department may modify, on a site specific basis, the minimum
8 reclamation standards for metals mining and milling operations
9 regulated under chapter 232, Laws of 1994 in order to achieve the
10 reclamation and closure objectives of that chapter. The basic
11 objective of reclamation for these operations is the reestablishment on
12 a continuing basis of vegetative cover, slope stability, water
13 conditions, and safety conditions.

14 (3) Reclamation activities, particularly those relating to control
15 of erosion and mitigation of impacts of mining to adjacent areas,
16 shall, to the extent feasible, be conducted simultaneously with surface
17 mining, and in any case shall be initiated at the earliest possible
18 time after completion of surface mining on any segment of the permit
19 area.

20 (4) All reclamation activities shall be completed not more than two
21 years after completion or abandonment of surface mining on each segment
22 of the area for which a reclamation permit is in force.

23 (5) The department may by contract delegate enforcement of
24 provisions of reclamation plans to counties, cities, and towns. A
25 county, city, or town performing enforcement functions may not impose
26 any additional fees on permit holders.

27 **Sec. 7.** RCW 79.10.120 and 2003 c 182 s 2 are each amended to read
28 as follows:

29 Multiple uses additional to and compatible with those basic
30 activities necessary to fulfill the financial obligations of trust
31 management may include but are not limited to:

- 32 (1) Recreational areas;
33 (2) Recreational trails for both vehicular and nonvehicular uses
34 developed and maintained consistent with section 2 of this act;
35 (3) Special educational or scientific studies;
36 (4) Experimental programs by the various public agencies;
37 (5) Special events;

1 (6) Hunting and fishing and other sports activities;

2 (7) Nonconsumptive wildlife activities as defined by the board of
3 natural resources;

4 (8) Maintenance of scenic areas;

5 (9) Maintenance of historical sites;

6 (10) Municipal or other public watershed protection;

7 (11) Greenbelt areas;

8 (12) Public rights-of-way;

9 (13) Other uses or activities by public agencies;

10 If such additional uses are not compatible with the financial
11 obligations in the management of trust land they may be permitted only
12 if there is compensation from such uses satisfying the financial
13 obligations.

14 **Sec. 8.** RCW 79.10.130 and 2013 c 15 s 1 are each amended to read
15 as follows:

16 (1) The department is hereby authorized to carry out all activities
17 necessary to achieve the purposes of this section and RCW 79.10.060,
18 79.10.070, 79.10.100 through 79.10.120, (~~79.10.130,~~) 79.10.200
19 through 79.10.330, 79.44.003, and 79.105.050 including, but not limited
20 to:

21 (a) Planning, construction, and operation of conservation,
22 recreational sites, areas, roads, and trails developed and maintained
23 consistent with section 2 of this act, by itself or in conjunction with
24 any public agency, nonprofit organization, volunteer, or volunteer
25 organization, including entering cooperative agreements for these
26 purposes;

27 (b) Planning, construction, and operation of special facilities for
28 educational, scientific, conservation, or experimental purposes by
29 itself or in conjunction with any other public or private agency,
30 including entering cooperative agreements for these purposes;

31 (c) Improvement of any lands to achieve the purposes of this
32 section and RCW 79.10.060, 79.10.070, 79.10.100 through 79.10.120,
33 (~~79.10.130,~~) 79.10.200 through 79.10.330, 79.44.003, and 79.105.050,
34 including entering cooperative agreements with public agencies,
35 nonprofit organizations, volunteers, and volunteer organizations for
36 these purposes;

1 (d) Entering cooperative agreements with public agencies, nonprofit
2 organizations, volunteers, and volunteer organizations regarding the
3 use of lands managed by the department for the purpose of providing a
4 benefit to lands managed by the department, including but not limited
5 to the following benefits: The utilization of such lands for watershed
6 purposes; carrying out restoration and enhancement projects on such
7 lands, such as improving, restoring, or enhancing habitat that provides
8 for plant or animal species protection; improving, restoring, or
9 enhancing watershed conditions; removing nonnative vegetation and
10 providing vegetation management to restore, enhance, or maintain
11 properly functioning conditions of the local ecosystem; and other
12 similar projects on these lands that provide long-term environmental
13 and other land management benefits, provided that the cooperative
14 agreements are consistent with land management obligations;

15 (e) Authorizing individual volunteers and volunteer organizations
16 to conduct restoration and enhancement projects on lands managed by the
17 department through cooperative agreements authorized in this section or
18 other arrangements that are consistent with land management obligations
19 and that do not require the volunteers to pay a fee for the cooperative
20 agreement purpose;

21 (f) Authorizing the receipt of gifts of personal property,
22 services, and other items of value for the purposes of this section, as
23 well as the exchange of consideration in cooperative agreements
24 authorized under this section;

25 (g) The authority to make such leases, contracts, agreements, or
26 other arrangements as are necessary to accomplish the purposes of this
27 section and RCW 79.10.060, 79.10.070, 79.10.100 through 79.10.120,
28 (~~79.10.130,~~) 79.10.200 through 79.10.330, 79.44.003, and 79.105.050.
29 However, nothing in this section shall affect any existing requirements
30 for public bidding or auction with private agencies or parties, except
31 that agreements or other arrangements may be made with public schools,
32 colleges, universities, governmental agencies, nonprofit organizations,
33 volunteers, and volunteer organizations. In addition, nothing in this
34 section is intended to conflict with the department's trust
35 obligations.

36 (2) The definitions in this subsection apply throughout this
37 section unless the context clearly requires otherwise.

1 (a) "Nonprofit organization" means: (i) Any organization described
2 in section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C.
3 Sec. 501(c)(3)) and exempt from tax under section 501(a) of the
4 internal revenue code; or (ii) any not-for-profit organization that is
5 organized and conducted for public benefit and operated primarily for
6 charitable, civic, educational, religious, welfare, or health purposes.

7 (b) "Volunteer" or "volunteer organization" means an individual or
8 entity performing services for a nonprofit organization or a
9 governmental entity who does not receive compensation, other than
10 reasonable reimbursement or allowances for expenses actually incurred,
11 or any other thing of value, in excess of five hundred dollars per
12 year. "Volunteer" includes a volunteer serving as a director, officer,
13 trustee, or direct service volunteer.

14 **Sec. 9.** RCW 79A.05.030 and 2005 c 373 s 1 and 2005 c 360 s 5 are
15 each reenacted and amended to read as follows:

16 The commission shall:

17 (1) Have the care, charge, control, and supervision of all parks
18 and parkways acquired or set aside by the state for park or parkway
19 purposes.

20 (2) Adopt policies, and adopt, issue, and enforce rules pertaining
21 to the use, care, and administration of state parks and parkways. The
22 commission shall cause a copy of the rules to be kept posted in a
23 conspicuous place in every state park to which they are applicable, but
24 failure to post or keep any rule posted shall be no defense to any
25 prosecution for the violation thereof.

26 (3) Permit the use of state parks and parkways by the public under
27 such rules as shall be adopted.

28 (4) Clear, drain, grade, seed, and otherwise improve or beautify
29 parks and parkways, and erect structures, buildings, fireplaces, and
30 comfort stations and build and maintain paths, trails, and roadways
31 through or on parks and parkways consistent with section 2 of this act.

32 (5) Grant concessions or leases in state parks and parkways, upon
33 such rentals, fees, or percentage of income or profits and for such
34 terms, in no event longer than fifty years, and upon such conditions as
35 shall be approved by the commission: PROVIDED, That leases exceeding
36 a twenty-year term shall require a unanimous vote of the commission:
37 PROVIDED FURTHER, That if, during the term of any concession or lease,

1 it is the opinion of the commission that it would be in the best
2 interest of the state, the commission may, with the consent of the
3 concessionaire or lessee, alter and amend the terms and conditions of
4 such concession or lease: PROVIDED FURTHER, That television station
5 leases shall be subject to the provisions of RCW 79A.05.085, only:
6 PROVIDED FURTHER, That the rates of such concessions or leases shall be
7 renegotiated at five-year intervals. No concession shall be granted
8 which will prevent the public from having free access to the scenic
9 attractions of any park or parkway.

10 (6) Employ such assistance as it deems necessary. Commission
11 expenses relating to its use of volunteer assistance shall be limited
12 to premiums or assessments for the insurance of volunteers by the
13 department of labor and industries, compensation of staff who assist
14 volunteers, materials and equipment used in authorized volunteer
15 projects, training, reimbursement of volunteer travel as provided in
16 RCW 43.03.050 and 43.03.060, and other reasonable expenses relating to
17 volunteer recognition. The commission, at its discretion, may waive
18 commission fees otherwise applicable to volunteers. The commission
19 shall not use volunteers to replace or supplant classified positions.
20 The use of volunteers may not lead to the elimination of any employees
21 or permanent positions in the bargaining unit.

22 (7) By majority vote of its authorized membership select and
23 purchase or obtain options upon, lease, or otherwise acquire for and in
24 the name of the state such tracts of land, including shore and tide
25 lands, for park and parkway purposes as it deems proper. If the
26 commission cannot acquire any tract at a price it deems reasonable, it
27 may, by majority vote of its authorized membership, obtain title
28 thereto, or any part thereof, by condemnation proceedings conducted by
29 the attorney general as provided for the condemnation of rights-of-way
30 for state highways. Option agreements executed under authority of this
31 subsection shall be valid only if:

32 (a) The cost of the option agreement does not exceed one dollar;
33 and

34 (b) Moneys used for the purchase of the option agreement are from
35 (i) funds appropriated therefor, or (ii) funds appropriated for
36 undesignated land acquisitions, or (iii) funds deemed by the commission
37 to be in excess of the amount necessary for the purposes for which they
38 were appropriated; and

1 (c) The maximum amount payable for the property upon exercise of
2 the option does not exceed the appraised value of the property.

3 (8) Cooperate with the United States, or any county or city of this
4 state, in any matter pertaining to the acquisition, development,
5 redevelopment, renovation, care, control, or supervision of any park or
6 parkway, and enter into contracts in writing to that end. All parks or
7 parkways, to which the state contributed or in whose care, control, or
8 supervision the state participated pursuant to the provisions of this
9 section, shall be governed by the provisions hereof.

10 (9) Within allowable resources, maintain policies that increase the
11 number of people who have access to free or low-cost recreational
12 opportunities for physical activity, including noncompetitive physical
13 activity.

14 (10) Adopt rules establishing the requirements for a criminal
15 history record information search for the following: Job applicants,
16 volunteers, and independent contractors who have unsupervised access to
17 children or vulnerable adults, or who will be responsible for
18 collecting or disbursing cash or processing credit/debit card
19 transactions. These background checks will be done through the
20 Washington state patrol criminal identification section and may include
21 a national check from the federal bureau of investigation, which shall
22 be through the submission of fingerprints. A permanent employee of the
23 commission, employed as of July 24, 2005, is exempt from the provisions
24 of this subsection.

25 **Sec. 10.** RCW 79A.15.070 and 2007 c 241 s 33 are each amended to
26 read as follows:

27 (1) In determining which state parks proposals and local parks
28 proposals to fund, the board shall use existing policies and
29 priorities.

30 (2) Except as provided in RCW 79A.15.030(7), moneys appropriated
31 for this chapter may not be used by the board to fund staff or other
32 overhead expenses, or by a state, regional, or local agency to fund
33 operation or maintenance of areas acquired under this chapter.

34 (3) Moneys appropriated for this chapter may be used by grant
35 recipients for costs incidental to acquisition and development,
36 including, but not limited to, surveying expenses, fencing, and
37 signing.

1 (4) The board may not approve a project of a local agency where the
2 share contributed by the local agency is less than the amount to be
3 awarded from the outdoor recreation account.

4 (5) The board may adopt rules establishing acquisition policies and
5 priorities for the acquisition and development of trails and water
6 access sites to be financed from moneys in the outdoor recreation
7 account.

8 (6) In determining the acquisition and development priorities, the
9 board shall consider, at a minimum, the following criteria:

10 (a) For trails proposals:

11 (i) Community support for the project;

12 (ii) Immediacy of threat to the site;

13 (iii) Linkage between communities;

14 (iv) Linkage between trails;

15 (v) Existing or potential usage;

16 (vi) Consistency with a local land use plan, or a regional or
17 statewide recreational or resource plan, including projects that assist
18 in the implementation of local shoreline master plans updated according
19 to RCW 90.58.080 or local comprehensive plans updated according to RCW
20 36.70A.130;

21 (vii) Availability of water access or views;

22 (viii) Enhancement of wildlife habitat; (~~and~~)

23 (ix) Consistency with section 2 of this act; and

24 (x) Scenic values of the site.

25 (b) For water access proposals:

26 (i) Community support for the project;

27 (ii) Distance from similar water access opportunities;

28 (iii) Immediacy of threat to the site;

29 (iv) Diversity of possible recreational uses;

30 (v) Public demand in the area; and

31 (vi) Consistency with a local land use plan, or a regional or
32 statewide recreational or resource plan, including projects that assist
33 in the implementation of local shoreline master plans updated according
34 to RCW 90.58.080 or local comprehensive plans updated according to RCW
35 36.70A.130.

36 (7) Before November 1st of each even-numbered year, the board shall
37 recommend to the governor a prioritized list of all state agency and
38 local projects to be funded under RCW 79A.15.050(1) (a), (b), (c), and

1 (d). The governor may remove projects from the list recommended by the
2 board and shall submit this amended list in the capital budget request
3 to the legislature. The list shall include, but not be limited to, a
4 description of each project and any particular match requirement, and
5 describe for each project any anticipated restrictions upon
6 recreational activities allowed prior to the project.

7 NEW SECTION. **Sec. 11.** A new section is added to chapter 77.12 RCW
8 to read as follows:

9 When not inconsistent with its overall mission or land management
10 purposes, the department shall manage any lands under its purview for
11 recreational trail access consistent with section 2 of this act.

12 NEW SECTION. **Sec. 12.** (1) The initial recreational trail policies
13 required under section 2 of this act must be adopted by October 31,
14 2015.

15 (2) This section expires June 30, 2016.

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