
HOUSE BILL 3004

State of Washington

61st Legislature

2010 Regular Session

By Representative Haler

Read first time 01/20/10. Referred to Committee on State Government & Tribal Affairs.

1 AN ACT Relating to transparency in the sale of public property to
2 public employees or former public employees; amending RCW 47.12.063,
3 54.16.180, and 79.11.040; reenacting and amending RCW 79.11.130; adding
4 a new section to chapter 35.21 RCW; adding a new section to chapter
5 35.22 RCW; adding a new section to chapter 35.23 RCW; adding a new
6 section to chapter 35.27 RCW; adding a new section to chapter 35.57
7 RCW; adding a new section to chapter 36.34 RCW; adding a new section to
8 chapter 36.100 RCW; adding a new section to chapter 43.17 RCW; adding
9 a new section to chapter 53.08 RCW; adding a new section to chapter
10 57.08 RCW; adding a new section to chapter 79A.05 RCW; and creating a
11 new section.

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

13 NEW SECTION. **Sec. 1.** The legislature finds that there is a need
14 to avoid insider trading in the public sector. This act creates a
15 mechanism so that public land sales offer transparency in the process
16 and avoid the appearance of favoritism when they include public or
17 former public employees.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 35.21 RCW
2 to read as follows:

3 Whenever a public employee or a person who was employed by a public
4 entity within the past twelve months enters into contract to purchase
5 public lands held by a public corporation created pursuant to RCW
6 35.21.730 or 35.21.660, the county legislative authority must ratify
7 the sale by majority vote at an open public meeting.

8 NEW SECTION. **Sec. 3.** A new section is added to chapter 35.22 RCW
9 to read as follows:

10 Whenever a public employee or a person who was employed by a public
11 entity within the past twelve months enters into contract to purchase
12 public lands held by a city, the city's legislative authority must
13 ratify the sale by majority vote at an open public meeting.

14 NEW SECTION. **Sec. 4.** A new section is added to chapter 35.23 RCW
15 to read as follows:

16 Whenever a public employee or a person who was employed by a public
17 entity within the past twelve months enters into contract to purchase
18 public lands held by a city, the city's legislative authority must
19 ratify the sale by majority vote at an open public meeting.

20 NEW SECTION. **Sec. 5.** A new section is added to chapter 35.27 RCW
21 to read as follows:

22 Whenever a public employee or a person who was employed by a public
23 entity within the past twelve months enters into contract to purchase
24 public lands held by a town, the town's legislative authority must
25 ratify the sale by majority vote at an open public meeting.

26 NEW SECTION. **Sec. 6.** A new section is added to chapter 35.57 RCW
27 to read as follows:

28 Whenever a public employee or a person who was employed by a public
29 entity within the past twelve months enters into contract to purchase
30 public lands held by a public facilities district, the city's
31 legislative authority must ratify the sale by majority vote at an open
32 public meeting.

1 NEW SECTION. **Sec. 7.** A new section is added to chapter 36.34 RCW
2 to read as follows:

3 Whenever the winning bidder for county property sold pursuant to
4 RCW 36.34.080 is a public employee or a person who was employed by a
5 public entity within the past twelve months, the county legislative
6 authority must ratify the sale by majority vote at an open public
7 meeting.

8 NEW SECTION. **Sec. 8.** A new section is added to chapter 36.100 RCW
9 to read as follows:

10 Whenever a public employee or a person who was employed by a public
11 entity within the past twelve months enters into contract to purchase
12 public lands held by a public facilities district, the city's
13 legislative authority must ratify the sale by majority vote at an open
14 public meeting.

15 NEW SECTION. **Sec. 9.** A new section is added to chapter 43.17 RCW
16 to read as follows:

17 When selling real property, each department must publish a notice
18 listing any bidder who is a public employee or who was employed by a
19 public entity within the previous twelve months.

20 **Sec. 10.** RCW 47.12.063 and 2006 c 17 s 2 are each amended to read
21 as follows:

22 (1) It is the intent of the legislature to continue the
23 department's policy giving priority consideration to abutting property
24 owners in agricultural areas when disposing of property through its
25 surplus property program under this section.

26 (2) Whenever the department determines that any real property owned
27 by the state of Washington and under the jurisdiction of the department
28 is no longer required for transportation purposes and that it is in the
29 public interest to do so, the department may sell the property or
30 exchange it in full or part consideration for land or improvements or
31 for construction of improvements at fair market value to any of the
32 following governmental entities or persons:

- 33 (a) Any other state agency;
34 (b) The city or county in which the property is situated;
35 (c) Any other municipal corporation;

1 (d) Regional transit authorities created under chapter 81.112 RCW;

2 (e) The former owner of the property from whom the state acquired
3 title;

4 (f) In the case of residentially improved property, a tenant of the
5 department who has resided thereon for not less than six months and who
6 is not delinquent in paying rent to the state;

7 (g) Any abutting private owner but only after each other abutting
8 private owner (if any), as shown in the records of the county assessor,
9 is notified in writing of the proposed sale. If more than one abutting
10 private owner requests in writing the right to purchase the property
11 within fifteen days after receiving notice of the proposed sale, the
12 property shall be sold at public auction in the manner provided in RCW
13 47.12.283;

14 (h) To any person through the solicitation of written bids through
15 public advertising in the manner prescribed by RCW 47.28.050;

16 (i) To any other owner of real property required for transportation
17 purposes;

18 (j) In the case of property suitable for residential use, any
19 nonprofit organization dedicated to providing affordable housing to
20 very low-income, low-income, and moderate-income households as defined
21 in RCW 43.63A.510 and is eligible to receive assistance through the
22 Washington housing trust fund created in chapter 43.185 RCW; or

23 (k) A federally recognized Indian tribe within whose reservation
24 boundary the property is located.

25 (3) Sales to purchasers may at the department's option be for cash,
26 by real estate contract, or exchange of land or improvements.
27 Transactions involving the construction of improvements must be
28 conducted pursuant to chapter 47.28 RCW or Title 39 RCW, as applicable,
29 and must comply with all other applicable laws and rules.

30 (4) Conveyances made pursuant to this section shall be by deed
31 executed by the secretary of transportation and shall be duly
32 acknowledged.

33 (5) Unless otherwise provided, all moneys received pursuant to the
34 provisions of this section less any real estate broker commissions paid
35 pursuant to RCW 47.12.320 shall be deposited in the motor vehicle fund.

36 (6) When selling real property, the department must publish a
37 notice listing any bidder or purchaser who is a public employee or who
38 was employed by a public entity within the previous twelve months.

1 NEW SECTION. **Sec. 11.** A new section is added to chapter 53.08 RCW
2 to read as follows:

3 Whenever a public employee or a person who was employed by a public
4 entity within the past twelve months enters into contract to purchase
5 public lands held by a port district, the commission must ratify the
6 sale by majority vote at an open public meeting.

7 **Sec. 12.** RCW 54.16.180 and 2008 c 198 s 5 are each amended to read
8 as follows:

9 (1) A district may sell and convey, lease, or otherwise dispose of
10 all or any part of its works, plants, systems, utilities and
11 properties, after proceedings and approval by the voters of the
12 district, as provided for the lease or disposition of like properties
13 and facilities owned by cities and towns. The affirmative vote of
14 three-fifths of the voters voting at an election on the question of
15 approval of a proposed sale((7)) shall be necessary to authorize such
16 a sale.

17 (2) A district may, without the approval of the voters, sell,
18 convey, lease, or otherwise dispose of all or any part of the property
19 owned by it that is located:

20 (a) Outside its boundaries, to another public utility district,
21 city, town or other municipal corporation; or

22 (b) Within or without its boundaries, which has become
23 unserviceable, inadequate, obsolete, worn out or unfit to be used in
24 the operations of the system and which is no longer necessary, material
25 to, and useful in such operations, to any person or public body.

26 (3) A district may sell, convey, lease or otherwise dispose of
27 items of equipment or materials to any other district, to any
28 cooperative, mutual, consumer-owned or investor-owned utility, to any
29 federal, state, or local government agency, to any contractor employed
30 by the district or any other district, utility, or agency, or any
31 customer of the district or of any other district or utility, from the
32 district's stores without voter approval or resolution of the
33 district's board, if such items of equipment or materials cannot
34 practicably be obtained on a timely basis from any other source, and
35 the amount received by the district in consideration for any such sale,
36 conveyance, lease, or other disposal of such items of equipment or

1 materials is not less than the district's cost to purchase such items
2 or the reasonable market value of equipment or materials.

3 (4) A district located within a county with a population of from
4 one hundred twenty-five thousand to less than two hundred ten thousand
5 may sell and convey to a city of the first class, which owns its own
6 water system, all or any part of a water system owned by the district
7 where a portion of it is located within the boundaries of the city,
8 without approval of the voters, upon such terms and conditions as the
9 district shall determine.

10 (5) A district located in a county with a population of from twelve
11 thousand to less than eighteen thousand and bordered by the Columbia
12 river may, separately or in connection with the operation of a water
13 system, or as part of a plan for acquiring or constructing and
14 operating a water system, or in connection with the creation of another
15 or subsidiary local utility district, provide for the acquisition or
16 construction, additions or improvements to, or extensions of, and
17 operation of, a sewage system within the same service area as in the
18 judgment of the district commission is necessary or advisable to
19 eliminate or avoid any existing or potential danger to public health
20 due to lack of sewerage facilities or inadequacy of existing
21 facilities.

22 (6) A district located within a county with a population of from
23 one hundred twenty-five thousand to less than two hundred ten thousand
24 bordering on Puget Sound may sell and convey to any city or town with
25 a population of less than ten thousand all or any part of a water
26 system owned by the district without approval of the voters upon such
27 terms and conditions as the district shall determine.

28 (7) A district may sell and convey, lease, or otherwise dispose of,
29 to any person or entity without approval of the voters and upon such
30 terms and conditions as it determines, all or any part of an electric
31 generating project owned directly or indirectly by the district,
32 regardless of whether the project is completed, operable, or operating,
33 as long as:

34 (a) The project is or would be powered by an eligible renewable
35 resource as defined in RCW 19.285.030; and

36 (b) The district, or the separate legal entity in which the
37 district has an interest in the case of indirect ownership, has:

1 (i) The right to lease the project or to purchase all or any part
2 of the energy from the project during the period in which it does not
3 have a direct or indirect ownership interest in the project; and

4 (ii) An option to repurchase the project or part thereof sold,
5 conveyed, leased, or otherwise disposed of at or below fair market
6 value upon termination of the lease of the project or termination of
7 the right to purchase energy from the project.

8 (8) Districts are municipal corporations for the purposes of this
9 section. A commission shall be held to be the legislative body, a
10 president and secretary shall have the same powers and perform the same
11 duties as a mayor and city clerk, and the district resolutions shall be
12 held to be ordinances within the meaning of statutes governing the
13 sale, lease, or other disposal of public utilities owned by cities and
14 towns.

15 (9) When selling real property, the district must publish a notice
16 listing any bidder or purchaser who is a public employee or who was
17 employed by a public entity within the previous twelve months.

18 NEW SECTION. Sec. 13. A new section is added to chapter 57.08 RCW
19 to read as follows:

20 When selling real property, the district must publish a notice
21 listing any bidder or purchaser who is a public employee or who was
22 employed by a public entity within the previous twelve months.

23 **Sec. 14.** RCW 79.11.040 and 2003 c 334 s 311 are each amended to
24 read as follows:

25 Any person desiring to purchase any state lands shall file an
26 application on the forms provided by the department and accompanied by
27 the fees authorized under RCW 79.02.250. If a person desiring to
28 purchase state lands is a public employee or was employed by a public
29 entity within the previous twelve months, the sale must conform to the
30 requirements of chapter 42.52 RCW.

31 **Sec. 15.** RCW 79.11.130 and 2003 c 381 s 4 and 2003 c 334 s 346 are
32 each reenacted and amended to read as follows:

33 (1) The department shall give notice of the sale by advertisement
34 published not fewer than two times during a four-week period prior to
35 the time of sale in at least one newspaper of general circulation in

1 the county in which the whole, or any part of any lot, block, or tract
2 of land to be sold is situated, and by posting a copy of the notice in
3 a conspicuous place in the department's Olympia office, the region
4 headquarters administering such sale, and in the office of the county
5 auditor of such county. The notice shall specify the place, date, and
6 time of sale, the appraised value of the land, describe with
7 particularity each parcel of land to be sold, and specify that the
8 terms of sale will be available in the region headquarters and the
9 department's Olympia office. In addition, the notice shall include the
10 names of any public employees or former public employees who left
11 public employment in the previous twelve months making any offer to
12 purchase the state land, the amount of the public employee's offer, the
13 terms and conditions of the offer, and when and how the offer was made.
14 The notice must also include a statement that all offers from any other
15 individuals and entities will be accepted and that the property shall
16 be sold only to the highest and best bidder.

17 (2) The advertisement is for informational purposes only, and under
18 no circumstances does the information in the notice of sale constitute
19 a warranty that the purchaser will receive the stated values, volumes,
20 or acreage. All purchasers are expected to make their own
21 measurements, evaluations, and appraisals.

22 (3) The department shall print a list of all public lands and the
23 appraised value thereof, that are to be sold. This list should be
24 published in a pamphlet form to be issued at least four weeks prior to
25 the date of any sale of the lands. The list should be organized by
26 county and by alphabetical order, and provide sale information to
27 prospective buyers. The department shall retain for free distribution
28 in the Olympia office and the region offices sufficient copies of the
29 pamphlet, to be kept in a conspicuous place, and, when requested so to
30 do, shall mail copies of the pamphlet as issued to any requesting
31 applicant. The department may seek additional means of publishing the
32 information in the pamphlet, such as on the internet, to increase the
33 number of prospective buyers.

34 (4) The sale of valuable materials appraised at an amount not
35 exceeding two hundred fifty thousand dollars, as described in RCW
36 (~~79.01.200~~) 79.11.090 and as authorized by the board of natural
37 resources, are exempt from the requirements of subsection (3) of this
38 section.

1 NEW SECTION. **Sec. 16.** A new section is added to chapter 79A.05
2 RCW to read as follows:

3 When selling real property, the commission must publish a notice
4 listing any bidder or purchaser who is a public employee or who was
5 employed by a public entity within the previous twelve months.

6 NEW SECTION. **Sec. 17.** If any provision of this act or its
7 application to any person or circumstance is held invalid, the
8 remainder of the act or the application of the provision to other
9 persons or circumstances is not affected.

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