

the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate February 22, 1980.

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CHAPTER 116

[Engrossed Senate Bill No. 3593]

UNAPPROPRIATED PUBLIC LANDS

AN ACT Relating to unappropriated public lands; adding a new chapter to Title 79 RCW; creating new sections; prescribing penalties; making an appropriation; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. The legislature of this state finds that:

(1) The intent of the framers of that compact known as the Constitution of the United States was to guarantee to each of the several states sovereignty over all matters within its boundaries excepting only those powers specifically granted to the government of the United States, as agent of the several states, under the Constitution of the United States;

(2) The imposition upon the state of Washington by the congress of the United States, of a requirement that the state of Washington "disclaim all right and title to the unappropriated public lands" lying within the state as a condition prerequisite to acceptance of the state of Washington into the union, was an act beyond the power of the congress of the United States and is thus null and of no effect;

(3) The present purported ownership and control of the public lands within the state of Washington by the government of the United States is without foundation and violates the clear intent of the Constitution of the United States; and

(4) The purported ownership and control of the public lands within the state of Washington by the government of the United States works a severe, continuous, and debilitating hardship upon the people of the state of Washington.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Department" means the department of natural resources.

(2) "Public lands" means all unreserved unappropriated public lands within the exterior boundaries of the state except lands:

(a) To which title is held by any private person or entity;

(b) To which title was held by the state or any political subdivision of the state on the effective date of this act;

- (c) Within the boundaries of:
  - (i) national parks;
  - (ii) national forests;
  - (iii) national monuments;
  - (iv) national wildlife and migratory bird sanctuaries established prior to October 16, 1978; and
  - (v) military reservations;
- (d) Which are essential to the operation, maintenance, and access to:
  - (i) United States Corps of Engineers, and United States Bureau of Reclamation projects;
  - (ii) designated United States highways;
  - (iii) shipyards, docks, security and defense establishments, magazines, and arsenals;
- (e) On which buildings are sited to house operations of the United States Government; or
- (f) Owned or controlled by Indian Reservations.

NEW SECTION. Sec. 3. (1) Subject to existing rights of the people, on and after the effective date of this act, fee title to all public lands in Washington, all waters on and below the surface of the land and all minerals not previously appropriated is vested in the state of Washington.

(2) Until equivalent measures are enacted by the state of Washington, the rights and privileges of the people of the state under the national forest reserve transfer act (16 U.S.C. Sec. 471 et seq.), the general mining laws (30 U.S.C. Sec. 21 et seq.), the homestead act (43 U.S.C. Sec. 161 et seq.), the Taylor grazing act (43 U.S.C. Sec. 315 et seq.) and the desert land act (43 U.S.C. Sec. 321 et seq.) and all rights of way and easements for public utilities shall be preserved under administration by the state.

(3) Public lands which have been administered by the United States under international treaties or interstate compacts shall continue to be administered by the state in conformance with those treaties or compacts.

NEW SECTION. Sec. 4. The public lands under this chapter shall be managed by the department and used to the greatest extent possible for recreation, wildlife habitat, agriculture, mineral and timber production and for the development, production, and transmission of energy and other public utility services under principles of multiple use which provide maximum benefit to the people of the state.

NEW SECTION. Sec. 5. Proceeds of sales, fees, rents, royalties, or other money paid or due the state under this chapter shall be deposited with the state treasurer to be credited to the general fund: PROVIDED, That the department shall deposit with each affected county in which lands are transferred an amount in equal proportion to revenues now or which would have been received by the county from revenue sharing programs established on those federal lands: PROVIDED FURTHER, That such revenue

shall be no less than twenty-five percent of the gross revenues earned by the state on such transferred lands.

Where leases of the public lands are sought, annual fees not to exceed fair market value shall be charged, with provision in each lease for tenure by the lessee.

NEW SECTION. Sec. 6. (1) The state of Washington has exclusive jurisdiction to enforce this chapter.

(2) A citizen of this state may institute civil action to recover damages for any injury or loss which is sustained as the result of a violation of this chapter.

(3) A person who attempts to exercise jurisdiction over the public lands under this chapter in a manner not permitted by the laws of this state shall be punished by imprisonment in the state prison for not less than two years nor more than ten years.

(4) A corporation or other entity which attempts to exercise jurisdiction over the public lands under this chapter in a manner not permitted by the laws of this state shall be punished by a fine of not more than five thousand dollars.

NEW SECTION. Sec. 7. (1) The department of natural resources shall conduct a study of the public lands of this state to determine:

(a) Which lands should be made available for disposition; and  
(b) Which lands should be retained by the state as habitats for wildlife or for recreational or other public purposes.

(2) The department of natural resources shall submit a report of its findings and recommendations to the legislature by January 1, 1982.

NEW SECTION. Sec. 8. Sections 2 through 6 of this act shall constitute a new chapter in Title 79 RCW.

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

NEW SECTION. Sec. 10. This 1980 act shall take effect on January 1, 1981, if the proposed amendment to Article XXVI of the state Constitution revoking this state's disclaimer of rights to unappropriated public lands is validly submitted and is approved and ratified by the voters at a general election held in November, 1980. If the proposed amendment is not so approved and ratified, this 1980 act shall be null and void in its entirety.

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