

# House Bill 2778

Sponsored by Representative BUTLER

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Excepts disposition of fish hatcheries owned or controlled by State Department of Fish and Wildlife from provisions relating to terminal disposition of state property. Requires that fish hatchery first be offered to federally recognized Oregon Indian tribes.

## A BILL FOR AN ACT

1  
2 Relating to disposition of fish hatcheries; amending ORS 270.100 and 270.110.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 270.100 is amended to read:

5 270.100. (1)(a) Before offering for sale any real property or equitable interest therein owned by  
6 the state, the state agency acting for the state in such transaction shall report its intent of sale or  
7 transfer to the Oregon Department of Administrative Services. The department, or the agency spe-  
8 cifically designated by the department, shall notify other state agencies authorized to own real  
9 property of the intended sale or transfer to determine whether acquisition of the real property or  
10 interest therein would be advantageous to another state agency.

11 (b) The department shall give political subdivisions, as defined in ORS 271.005, the first oppor-  
12 tunity after other state agencies to acquire, purchase, exchange or lease real property to be sold  
13 or disposed of by the State of Oregon. The state agency responsible for selling or transferring the  
14 property may require at the time of the sale or transfer that any state real property sold or trans-  
15 ferred to a political subdivision, as defined in ORS 271.005, shall be for use for a public purpose or  
16 benefit, and not be for resale to a private purchaser.

17 (c) If property is not disposed of under paragraph (a) or (b) of this subsection, in accordance  
18 with rules adopted by the department, the state agency desiring to sell or transfer the property shall  
19 cause it to be appraised by one or more competent and experienced appraisers. Except as provided  
20 in ORS 273.825, if such property has an appraised value exceeding \$5,000 it shall not be sold to any  
21 private person except after notice calling for such proposals as set forth in ORS 270.130.

22 *[(d) The department shall adopt rules to carry out the provisions of this section.]*

23 (2) Before acquisition of any real property or interest therein by any state agency, except for  
24 highway right of way acquired by the Department of Transportation and park properties acquired  
25 by the State Parks and Recreation Department and property within the approved projected campus  
26 boundaries for institutions of the Department of Higher Education, the state agency shall report its  
27 intent of acquisition to the Oregon Department of Administrative Services. The department shall  
28 notify other state agencies owning land of the intended acquisition to determine whether another  
29 state agency desires to sell or transfer property which would meet the needs of the purchasing  
30 agency. In accordance with rules adopted by the Oregon Department of Administrative Services, if  
31 no other state agency desires to sell or transfer property which would meet the needs of the agency,

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 the agency may acquire the real property or interest therein, consistent with applicable provisions  
 2 of law.

3 (3) Before any terminal disposition of real property or an interest in real property, the state  
 4 agency acting for the state in the transaction must secure approval of the transaction from the  
 5 Oregon Department of Administrative Services.

6 (4) Subsection (3) of this section does not apply to terminal disposition of the following real  
 7 property:

- 8 (a) Property controlled by the State Department of Fish and Wildlife;
- 9 (b) State forestlands controlled by the State Forestry Department;
- 10 (c) Property controlled by the Department of Transportation;
- 11 (d) Property controlled by the Department of State Lands;
- 12 (e) Property controlled by the Department of Higher Education;
- 13 (f) Property controlled by the legislative or judicial branches of state government; and
- 14 (g) Property controlled by the State Parks and Recreation Department.

15 (5) Notwithstanding the provisions of subsection (4) of this section, prior approval by the Oregon  
 16 Department of Administrative Services is required for the terminal disposition of public land for less  
 17 than the fair market value of that land.

18 (6) The provisions of ORS 184.634, 270.005 to 270.015, 270.100 to 270.190, 273.416, 273.426 to  
 19 273.436, 273.551 and 308A.709 (1) to (4) do not apply to a home or farm acquired, sold, or both, by  
 20 the Director of Veterans' Affairs under ORS 88.720, 273.388, 406.050, 407.135, 407.145, 407.375 and  
 21 407.377.

22 **(7) Notwithstanding subsection (1) of this section, the State Department of Fish and**  
 23 **Wildlife shall first offer to the federally recognized Oregon Indian tribes the opportunity to**  
 24 **acquire, purchase, exchange or lease fish hatcheries and related facilities before offering for**  
 25 **sale a fish hatchery or related facilities.**

26 **(8) The Oregon Department of Administrative Services shall adopt rules to carry out the**  
 27 **provisions of this section.**

28 **SECTION 2.** ORS 270.110 is amended to read:

29 270.110. (1) Except as provided in subsection (2) of this section, whenever the state or any  
 30 agency thereof possesses or controls real property not needed for public use, or whenever the public  
 31 interest may be furthered, the state or its agency may sell, exchange, convey or lease for any period  
 32 not exceeding 99 years all or any part of its interest in the property to or with [*the state or any*  
 33 *political subdivision of the state or the United States or any agency thereof or*] **a public body, as**  
 34 **defined in ORS 174.109, federally recognized Oregon Indian tribe**, private individual or corpo-  
 35 ration. Except where the state is exchanging real property, the consideration for the transfer or  
 36 lease may be cash or real property, or both.

37 (2) If the ownership, right or title of the state to any real property set apart by deed, will or  
 38 otherwise for a burial ground or cemetery, or for the purpose of interring the remains of deceased  
 39 persons, is limited or qualified or the use of such real property is restricted, whether by dedication  
 40 or otherwise, the state or its agency may, after first declaring by resolution that such real property  
 41 is not needed for public use, or that the sale, exchange, conveyance or lease thereof will further the  
 42 public interest, file a complaint in the circuit court for the county in which such real property is  
 43 located against all persons claiming any right, title or interest in such real property, whether the  
 44 interest be contingent, conditional or otherwise, for authority to sell, exchange, convey or lease all  
 45 or any part of such real property. The resolution is prima facie evidence that such real property is

1 not needed for public use, or that the sale, exchange, conveyance or lease will further the public  
2 interest. The action shall be commenced and prosecuted to final determination in the same manner  
3 as an action not triable by right to a jury. The complaint shall contain a description of such real  
4 property, a statement of the nature of the restrictions, qualifications or limitations, and a statement  
5 that the defendants claim some interest therein. The court shall make such judgment as it shall  
6 deem proper, taking into consideration the limitations, qualifications or restrictions, the resolution  
7 and all other matters pertinent thereto. Neither costs nor disbursements may be recovered against  
8 any defendant.

9 (3) The authority to lease property granted by this section includes authority to lease property  
10 not owned or controlled by the state at the time of entering into the lease. Such lease shall be  
11 conditioned upon the subsequent acquisition of the interest covered by the lease.

12 (4) Except for airspace leases negotiated by the Oregon Department of Aviation, leases of state  
13 forestlands, and leases of property controlled by the Department of State Lands, Department of  
14 Higher Education or the legislative or judicial branches of state government, any lease of state real  
15 property exceeding five years must be approved in advance by the Oregon Department of Adminis-  
16 trative Services.

17

---