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SENATE BILL 5722

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State of Washington

52nd Legislature

1991 Regular Session

By Senators Oke and Owen; by request of Department of Natural Resources.

Read first time February 18, 1991. Referred to Committee on Environment & Natural Resources.

1 AN ACT Relating to interest rates for the department of natural  
2 resources; amending RCW 79.90.520, 79.90.535, and 76.04.620; and  
3 reenacting and amending RCW 76.04.630.

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

5 **Sec. 1.** RCW 79.90.520 and 1984 c 221 s 15 are each amended to read  
6 as follows:

7 The manager shall, by rule, provide for an administrative review of  
8 any aquatic land rent proposed to be charged. The rules shall require  
9 that the lessee or applicant for release file a request for review  
10 within thirty days after the manager has notified the lessee or  
11 applicant of the rent due. For leases issued by the department, the  
12 final authority for the review rests with the board of natural  
13 resources. For leases managed under RCW 79.90.475, the final authority  
14 for the review rests with the appropriate port commission. If the  
15 request for review is made within thirty days after the manager's final

1 determination as to the rental, the lessee may pay rent at the  
2 preceding year's rate pending completion of the review, and shall pay  
3 any additional rent or be entitled to a refund, with interest thirty  
4 days after announcement of the decision. The interest rate shall be  
5 (~~the average rate of return for the prior calendar year on~~  
6 ~~conventional real property mortgages as reported by the federal home~~  
7 ~~loan bank board~~) fixed, from time to time, by rule adopted by the  
8 board of natural resources and shall not be less than six percent per  
9 annum. Nothing in this section abrogates the right of an aggrieved  
10 party to pursue legal remedies (~~including those under chapter 34.05~~  
11 ~~RCW~~). For purposes of this section, "manager" is the department  
12 except where state-owned aquatic lands are managed by a port district,  
13 in which case "manager" is the port district.

14 **Sec. 2.** RCW 79.90.535 and 1984 c 221 s 18 are each amended to read  
15 as follows:

16 (~~The lessee shall pay interest at the rate of one percent per~~  
17 ~~month on rent or other sums owing to the department commencing thirty~~  
18 ~~days after the date each rent or other sum is due and payable, unless~~  
19 ~~there is review pending under RCW 79.90.520~~) The interest rate and all  
20 interest rate guidelines shall be fixed, from time to time, by rule  
21 adopted by the board of natural resources and shall not be less than  
22 six percent per annum.

23 **Sec. 3.** RCW 76.04.620 and 1986 c 100 s 36 are each amended to read  
24 as follows:

25 Biennial general fund appropriations to the department of natural  
26 resources normally provide funds for the purpose of paying the  
27 emergency fire costs and expenses incurred and/or approved by the  
28 department in forest fire suppression or in reacting to any potential

1 forest fire situation. When a determination is made that the fire  
2 started in the course of or as a result of a landowner operation,  
3 moneys expended from such appropriations in the suppression of the fire  
4 shall be recovered from the landowner contingency forest fire  
5 suppression account. The department shall transmit to the state  
6 treasurer for deposit in the general fund any such moneys which are  
7 later recovered. Moneys recovered during the biennium in which they  
8 are expended may be spent for purposes set forth in this section during  
9 the same biennium, without reappropriation. Loans between the general  
10 fund and the landowner contingency forest fire suppression account are  
11 authorized for emergency fire suppression. The loans shall not exceed  
12 the amount appropriated for emergency forest fire suppression costs and  
13 shall bear interest at the ~~((then current rate of interest as  
14 determined by the state treasurer))~~ rate determined for interfund loans  
15 under RCW 79.64.030.

16 **Sec. 4.** RCW 76.04.630 and 1989 c 362 s 2 and 1989 c 175 s 162 are  
17 each reenacted and amended to read as follows:

18 There is created a landowner contingency forest fire suppression  
19 account which shall be a separate account in the state treasury.  
20 Moneys in the account may be spent only as provided in this section.  
21 Disbursements from the account shall be on authorization of the  
22 commissioner of public lands or the commissioner's designee. The  
23 account is subject to the allotment procedure provided under chapter  
24 43.88 RCW, but no appropriation is required for disbursements.

25 The department may expend from this account such amounts as may be  
26 available and as it considers appropriate for the payment of emergency  
27 fire costs resulting from a participating landowner fire. The  
28 department may, when moneys are available from the landowner  
29 contingency forest fire suppression account, expend moneys for

1 summarily abating, isolating, or reducing an extreme fire hazard under  
2 RCW 76.04.660. All moneys recovered as a result of the department's  
3 actions, from the owner or person responsible, under RCW 76.04.660  
4 shall be deposited in the landowner contingency forest fire suppression  
5 account.

6 When a determination is made that the fire was started by other  
7 than a landowner operation, moneys expended from this account in the  
8 suppression of such fire shall be recovered from such general fund  
9 appropriations as may be available for emergency fire suppression  
10 costs. The department shall deposit in the landowner contingency  
11 forest fire suppression account any moneys paid out of the account  
12 which are later recovered, less reasonable costs of recovery.

13 This account shall be established and renewed by a special forest  
14 fire suppression account assessment paid by participating landowners at  
15 a rate to be established by the department, but not to exceed fifteen  
16 cents per acre per year for such period of years as may be necessary to  
17 establish and thereafter reestablish a balance in the account of three  
18 million dollars. The department may establish a minimum assessment for  
19 ownership parcels identified in RCW 76.04.610 as paying the minimum  
20 assessment. The maximum assessment for these parcels shall not exceed  
21 the fees levied on a thirty-acre parcel. There shall be no assessment  
22 on each parcel of privately owned lands of less than two acres. The  
23 assessments may differ to equitably distribute the assessment based on  
24 emergency fire suppression cost experience necessitated by landowner  
25 operations. Amounts assessed for this account shall be a lien upon the  
26 forest lands with respect to which the assessment is made and may be  
27 collected as directed by the department in the same manner as forest  
28 protection assessments. This account shall be held by the state  
29 treasurer, who is authorized to invest so much of the account as is not  
30 necessary to meet current needs. Any interest earned on moneys from

1 the account shall be deposited in and remain a part of the account and  
2 shall be computed as part of same in determining the balance thereof.  
3 Interfund loans to and from this account are authorized at the  
4 (~~current rate of interest as determined by the state treasurer~~) rate  
5 determined for interfund loans under RCW 79.64.030, provided that the  
6 effect of the loan is considered for purposes of determining the  
7 assessments. Payment of emergency costs from this account shall in no  
8 way restrict the right of the department to recover costs pursuant to  
9 RCW 76.04.495 or other laws.

10 When the department determines that a forest fire was started in  
11 the course of or as a result of a landowner operation, it shall notify  
12 the forest fire advisory board of the determination. The determination  
13 shall be final, unless, within ninety days of the notification, the  
14 forest fire advisory board or any interested party serves a request for  
15 a hearing before the department. The hearing shall constitute an  
16 adjudicative proceeding under chapter 34.05 RCW, the administrative  
17 procedure act, and any appeal shall be in accordance with RCW  
18 34.05.510 through 34.05.598.