

2 **SHB 1005** - H AMD  
3 By Representative Morris

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5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. **Sec. 1.** The legislature finds that local public  
8 utilities provide essential services to all of the residents of the  
9 state and that the construction and improvement of local utility  
10 infrastructure is critical to the public health, safety, and welfare,  
11 community and economic development, and installation of modern and  
12 reliable communication and energy technology. The legislature further  
13 finds that local utility lines must cross state-owned aquatic lands in  
14 order to reach all state residents and that, for the benefit of such  
15 residents, the state should permit the crossings, consistent with all  
16 applicable state environmental laws, in a nondiscriminatory, economic,  
17 and timely manner. The legislature further finds that this act and the  
18 valuation methodology in section 3 of this act applies only to the uses  
19 listed in section 2 of this act, and does not establish a precedent for  
20 valuation for any other uses on state-owned aquatic lands.

21 **Sec. 2.** RCW 79.90.470 and 1984 c 221 s 5 are each amended to read  
22 as follows:

23 (1) The use of state-owned aquatic lands for public utility lines  
24 owned by a governmental entity shall be granted ((without charge)) by  
25 an agreement, permit, or other instrument if the use is consistent with  
26 the purposes of RCW 79.90.450 through 79.90.460 and does not obstruct  
27 navigation or other public uses. The department may recover only its  
28 reasonable direct administrative costs incurred in processing and  
29 approving the request or application, and reviewing plans for  
30 construction of public utility lines. For purposes of this section,  
31 "direct administrative costs" means the cost of hours worked directly  
32 on an application or request, based on salaries and benefits, plus  
33 travel reimbursement and other actual out-of-pocket costs. Direct  
34 administrative costs recovered by the department must be deposited into  
35 the resource management cost account. Use for public parks or public

1 recreation purposes shall be granted without charge if the aquatic  
2 lands and improvements are available to the general public on a first-  
3 come, first-served basis and are not managed to produce a profit for  
4 the operator or a concessionaire. The department may lease state-owned  
5 tidelands that are in front of state parks only with the approval of  
6 the state parks and recreation commission. The department may lease  
7 bedlands in front of state parks only after the department has  
8 consulted with the state parks and recreation commission.

9 (2) The use of state-owned aquatic lands for local public utility  
10 lines owned by a nongovernmental entity will be granted by easement if  
11 the use is consistent with the purpose of RCW 79.90.450 through  
12 79.90.460 and does not obstruct navigation or other public uses. The  
13 total charge for the easement will be determined under section 3 of  
14 this act.

15 (3) Nothing in this section limits the ability of the department to  
16 obtain payment for commodity costs, such as lost revenue from renewable  
17 resources, resulting from the granted use of state-owned aquatic lands  
18 for public utility lines.

19 NEW SECTION. Sec. 3. A new section is added to chapter 79.90 RCW  
20 to read as follows:

21 (1) Until July 1, 2008, the charge for the term of an easement  
22 granted under RCW 79.90.470(2) will be determined as follows and will  
23 be paid in advance upon grant of the easement:

24 (a) Five thousand dollars for individual easement crossings that  
25 are no longer than one mile in length;

26 (b) Twelve thousand five hundred dollars for individual easement  
27 crossings that are more than one mile but less than five miles in  
28 length; or

29 (c) Twenty thousand dollars for individual easement crossings that  
30 are five miles or more in length.

31 (2) The charge for easements under subsection (1) of this section  
32 must be adjusted annually by the rate of yearly increase in the most  
33 recently published consumer price index, all urban consumers, for the  
34 Seattle-Everett SMSA, over the consumer price index for the preceding  
35 year, as compiled by the bureau of labor statistics, United States  
36 department of labor for the state of Washington rounded up to the  
37 nearest fifty dollars.

38 (3) The term of the easement is thirty years.

1 (4) In addition to the charge for the easement under subsection (1)  
2 of this section, the department may recover its reasonable direct  
3 administrative costs incurred in receiving an application for the  
4 easement, approving the easement, and reviewing plans for and  
5 construction of the public utility lines. For the purposes of this  
6 subsection, "direct administrative costs" means the cost of hours  
7 worked directly on an application, based on salaries and benefits, plus  
8 travel reimbursement and other actual out-of-pocket costs. Direct  
9 administrative costs recovered by the department must be deposited into  
10 the resource management cost account.

11 (5) Applicants under RCW 79.90.470(2) providing a residence with an  
12 individual service connection for electrical, natural gas, cable  
13 television, or telecommunications service are not required to pay the  
14 charge for the easement under subsection (1) of this section but shall  
15 pay administrative costs under subsection (4) of this section.

16 (6) A final decision on applications for an easement must be made  
17 within one hundred twenty days after the department receives the  
18 completed application and after all applicable regulatory permits for  
19 the aquatic easement have been acquired. This subsection applies to  
20 applications submitted before the effective date of this section, as  
21 well as to applications submitted on or after the effective date of  
22 this section. Upon request of the applicant, the department may reach  
23 a decision on an application within sixty days and charge an additional  
24 fee for an expedited processing. The fee for an expedited processing  
25 is the greater of: (a) Ten percent of the combined total of the  
26 easement charge and direct administrative costs; or (b) the cost of  
27 staff overtime, calculated at time and one-half, associated with the  
28 expedited processing.

29 NEW SECTION. **Sec. 4.** If any provision of this act or its  
30 application to any person or circumstance is held invalid, the  
31 remainder of the act or the application of the provision to other  
32 persons or circumstances is not affected."

33 Correct the title.

EFFECT: The striking amendment changes the substitute bill as follows:

(1) Clarifies that the valuation methodology used in this act is intended only when charging for the use of state-owned aquatic lands for public utility lines;

(2) Reduces the breakdown of charges for easements from 4 categories to 3 categories as follows: \$5,000 for 0-1 mile; \$12,500 for over 1 mile and under 5 miles; and \$20,000 for 5 miles or more;

(3) Adds natural gas and cable television to the exception that eliminates the easement charges for individual service provided to a residence;

(4) Clarifies that a final decision on an easement application must be made within 120 days after the DNR receives a completed application and all regulatory permits for the aquatic easement have been acquired;

(5) Clarifies that the charge for an expedited processing is the greater of 10% of the total of the easement charge and direct administrative costs for the easement or the cost of staff overtime calculated at time and one-half; and

(6) Terminates the charge for an aquatic lands easement after July 1, 2008.

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