

FINAL BILL REPORT

ESHB 1005

C 152 L 02

Synopsis as Enacted

Brief Description: Allowing the granting of easements on state-owned aquatic lands for local public utility lines.

Sponsors: By House Committee on Technology, Telecommunications & Energy (originally sponsored by Representatives Morris and Lantz).

House Committee on Technology, Telecommunications & Energy
Senate Committee on Economic Development & Telecommunications
Senate Committee on Ways & Means

Background:

State-owned aquatic lands are state-owned tidelands, shorelands, harbor areas, beds of navigable waters, and waterways administered by the Department of Natural Resources (DNR) or managed by a port district. This does not include aquatic lands owned in fee by, or withdrawn for the use of, state agencies other than the DNR.

Governmental entities may use state-owned aquatic lands for public utility lines at no charge as long as the use is consistent with statutory purposes for these lands and does not obstruct navigation or other uses. Public utility lines include pipes or similar structures for distribution of water, electricity, natural gas, telephone, other electronic communication, and sewers.

As the manager of state-owned aquatic lands, the DNR must strive to balance the public benefits for all citizens. Public benefits of aquatic lands include encouraging direct public use and access, fostering water-dependent uses, ensuring environmental protection, and utilizing renewable resources.

The DNR is vested with the authority to grant the use of state-owned aquatic lands upon terms and conditions and length of time that are consistent with the state constitution and state laws.

Summary:

Non-governmental entities may obtain easements with the DNR over state-owned aquatic lands for local public utility lines as long as the use is consistent with statutory purposes for these lands and does not obstruct navigation and other uses. In granting these easements, the DNR is to charge the applicant based on a three-tiered schedule depending

upon the length of the easement. Until July 1, 2008, specific charges are as follows: (1) \$5,000 for easements that are no longer than one mile in length, (2) \$12,500 for easements that are greater than one mile but less than five miles, and (3) \$20,000 for easements that are five miles or more in length. These charges are to be adjusted annually by the rate of yearly increase in the consumer price index (all urban consumers Seattle-Everett SMSA). The term of an easement is 30 years.

For existing easement applications and new applications, the DNR must make a final decision within 120 days of its receipt of a completed application and after all applicable regulatory permits for the aquatic easement are obtained. An applicant may request a decision in 60 days and the DNR may charge an additional fee for such expedited processing. The fee for expedited processing is the greater of 10 percent of the charge and direct administrative costs for the easement or the cost of staff overtime associated with the permit processing.

Easement applicants providing service to a residence with an individual service connection for electrical, natural gas, cable television, or telecommunications service are not required to pay the charge for the easement but must pay the DNR's direct administrative costs.

The DNR may recover reasonable direct administrative costs associated with processing and approving requests for use of state-owned aquatic lands from governmental entities and for easement applications from non-governmental entities. Direct administrative costs are defined as the cost of hours worked directly on processing the application (based on salaries and benefits), travel reimbursement, and other actual out-of-pocket costs.

Direct administrative costs recovered by the DNR are to be deposited in the Resource Management Cost Account.

These provisions do not limit the ability of the DNR to recover lost revenue resulting from the granted use of state-owned aquatic lands for public utility lines.

Votes on Final Passage:

House 98 0

Senate 41 8

Effective: June 13, 2002