

# HOUSE BILL REPORT

## HB 2162

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### As Reported by House Committee On:

Natural Resources  
Appropriations

**Title:** An act relating to studying methods for calculating water-dependent lease rates for marinas on state-owned aquatic lands.

**Brief Description:** Requiring a report to the legislature addressing alternative methods for the determination of water-dependent rent for marina lessees.

**Sponsors:** Representatives Murray and Ericksen.

### Brief History:

#### Committee Activity:

Natural Resources: 2/26/01 [DPS];

Appropriations: 3/1/01, 3/8/01 [DP2S(w/o sub NR)].

#### Brief Summary of Second Substitute Bill

- Directs the Department of Natural Resources to study and prepare a report to the Legislature on alternatives to the current method for the determination of water-dependent rent for marina lessees.
- Discounts marina rent increases to 25 percent of the regularly calculated rate beginning January 1, 2001 through June 30, 2002.

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### HOUSE COMMITTEE ON NATURAL RESOURCES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Doumit, Democratic Co-Chair; Sump, Republican Co-Chair; Pearson, Republican Vice Chair; Rockefeller, Democratic Vice Chair; Buck, G. Chandler, Eickmeyer, Ericksen, Jackley, Murray and Pennington.

**Staff:** Jason Callahan (786-7117).

### Background:

The Washington State Constitution declares that the beds and shores of all navigable

waters in Washington are owned by the state. The Legislature subsequently designated the DNR as the steward of these lands. The DNR acts as a proprietor, subject to legislative direction, of all state-owned aquatic lands and holds these lands in trust for all current and future residents of the state. Aquatic lands must be managed to encourage direct public use and access, foster water-dependent uses, ensure environmental protection, and utilize renewable resources.

In 1984 the Legislature defined the purpose of aquatic lands management. Water-dependent uses are favored over all other uses of state-owned aquatic lands. Water-dependent uses are defined as those uses which can not logically exist in any location but on the water. The DNR has sited moorages, marine terminals, aquaculture, and public piers as examples of water-dependent uses. Non water-dependent uses are given the lowest management priority. These uses are defined as uses that can operate in areas other than on the water. The DNR examples of these include hotels, restaurants, and retail stores. The DNR reports that only 8 percent of state-owned aquatic lands are leased for nonwater-dependent uses.

The DNR is authorized by statute to lease state-owned aquatic lands to private interests. The DNR charges the fair market value of the leased lands if the state-owned aquatic interest is being used for a nonwater-dependent use. If the leased state-owned aquatic land is used for a water-dependent use, the DNR charges as rent 30 percent of the assessed value of the adjoining upland. The DNR is authorized to allow the use of state-owned aquatic lands without charging any rent under certain limited circumstances. These circumstances include the use of aquatic lands for public utility lines, public recreational areas, and by port districts.

In 1999 the DNR presented a rent study report to the Legislature. In that report, the DNR studied various methods for the calculation of rent rates for aquatic lands and concluded that the current method should be retained. The rationale for that conclusion was that the current method is the best in balancing the many public benefits of aquatic lands.

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### **Summary of Substitute Bill:**

The DNR, through a Marina Rent Committee, will study and prepare a report to the Legislature on alternatives to the current method for the determination of water-dependent rent for marina lessees. The study is limited to the following methods of rent calculations:

- 1) the current water-dependent method;
- 2) an appraisal/fair market value method;
- 3) a method using the existing formula but substituting an average of upland values in place of a single adjacent upland;

- 4) a revenue model based upon total gross business income; or
- 5) a revenue model based on theoretical moorage income.

The report will be prepared with the assistance of outside economic expertise, and with the assistance of marina owners and stakeholder involvement. The report must include the income and expenses from each marina, with details on the sources of income and the cause of the expense.

The DNR must consider: information on the costs and benefits of each method; a comparison with current calculation methods; the private industry perspective; the public interest perspective; an analysis of the impact on state revenue; an evaluation of the impact in economically distressed counties; an evaluation of the liabilities associated with marinas; and information on the ease and cost of administration.

To conduct the study, the DNR will form a Marina Rent Committee. The committee will be composed of representatives from the Northwest Marine Trade Association, the Association of Independent Moorages, the Puget Sound Marina Association, an independent marina operator from a rural area, the Association of Washington Cities, the Washington Public Ports Association, the Association of Washington Counties, and a member of the public.

The DNR must present their study to the Legislature by September 1, 2001 and include draft legislation and recommendations for implementation.

Until June 30, 2002 any rent increases for marinas will be limited to 25 percent of the regularly calculated increase. The rental increase discount is only available for marinas in good standing with the DNR.

**Substitute Bill Compared to Original Bill:**

The original bill did not include the rent increase discount, the appropriation, or the detailed scope of study.

**Appropriation:** The sum of \$100,000 will be appropriated from the Resource Management Cost Account to cover the costs of this study.

**Fiscal Note:** Requested on February 20, 2001.

**Effective Date of Substitute Bill:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** The similar study in 1998 has been criticized, and this offers a fresh look at the issue with a tighter scope. The bill provides a carefully crafted roadmap for studying aquatic lands rental rates. The bill was negotiated with stakeholders and

represents a balanced approach to the study of marina rent formulations.

**Testimony Against:** None.

**Testified:** Cliff Webster and Frank Urabeck, Northwest Marine Trade Association; Eric Johnson, Washington Public Ports Association; and Loren Stern, Department of Natural Resources.

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## **HOUSE COMMITTEE ON APPROPRIATIONS**

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Natural Resources. Signed by 32 members: Representatives Sehlin, Republican Co-Chair; H. Sommers, Democratic Co-Chair; Barlean, Republican Vice Chair; Doumit, Democratic Vice Chair; Lisk, Republican Vice Chair; Alexander, Benson, Boldt, Buck, Clements, Cody, Cox, Dunshee, Fromhold, Gombosky, Grant, Kagi, Keiser, Kenney, Kessler, Lambert, Linville, Mastin, McIntire, Mulliken, Pearson, Pflug, Ruderman, D. Schmidt, Schual-Berke, Talcott and Tokuda.

**Staff:** Jeff Olsen (786-7157).

### **Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Natural Resources:**

The appropriation of \$100,000 from the Resource Management Cost account to implement the bill is removed.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Second Substitute Bill:** Ninety days after adjournment of session in which bill is passed. However, the bill is null and void if not funded in the budget.

**Testimony For:** While it appears to replicate the 1999 study, this study is more focused. The bill was negotiated with stakeholders and offers an opportunity to continue working on a balanced approach for marina rents.

**Testimony Against:** None.

**Testified:** Cliff Webster, Northwest Marine Trade Association; and Loren Stern, Department of Natural Resources.