
SECOND SUBSTITUTE HOUSE BILL 2162

State of Washington 57th Legislature 2001 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Murray and Ericksen)

Read first time 03/08/2001. Referred to Committee on .

1 AN ACT Relating to studying methods for calculating water-dependent
2 lease rates for marinas on state-owned aquatic lands; amending RCW
3 79.90.480; and creating new sections.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that the current
6 method for determining water-dependent rental rates for aquatic land
7 leases for marinas may not be achieving the management goals in RCW
8 79.90.450 through 79.90.540. The current method for setting rental
9 rates for marinas, as well as alternatives to the current methods,
10 should be evaluated in light of achieving management goals for aquatic
11 lands leases. The legislature finds that in order to prepare a
12 complete and comprehensive report on this subject, the department of
13 natural resources must be provided with complete income and expense
14 information. The legislature further finds that rent increases for
15 marinas should be limited to twenty-five percent of what the increase
16 for each marina would otherwise have been under RCW 79.90.480, until
17 June 30, 2002.

18 (2) The department of natural resources shall study and prepare a
19 report to the legislature on alternatives to the current method for

1 determination of water-dependent rent for marina lessees, as set forth
2 in RCW 79.90.480. The only methods to be studied are: The current
3 water-dependent method; an appraisal/fair market value method; a method
4 using the existing water-dependent formula but substituting an average
5 of upland values in place of a single adjacent or proximate upland
6 value; a revenue model based upon total gross business income as
7 reported to the department of revenue; and a Northwest marine trade
8 association proposed revenue model based only on theoretical moorage
9 income generated on state-owned aquatic land. Discussions and work on
10 the report are limited to the study alternatives listed in this
11 subsection, and information from the 1998 study.

12 (3) The report shall be prepared with the assistance of appropriate
13 economic expertise, and with marina owner and other stakeholder
14 involvement. Affected marina owners and stakeholders shall participate
15 with the department of natural resources by providing information
16 necessary to complete this study. This information shall include gross
17 income and expenses from each marina with details on the sources of
18 income and cause of expense. For each method, the report shall:

- 19 (a) Describe each method and the costs and benefits of each;
- 20 (b) Compare each with the current method of calculating rents;
- 21 (c) Provide the private industry perspective;
- 22 (d) Describe the public perspective;
- 23 (e) Analyze the impact on state lease revenue;
- 24 (f) Evaluate the impacts of water-dependent rates on economic
25 development in economically distressed counties;
- 26 (g) Evaluate the liabilities associated with marinas; and
- 27 (h) Evaluate the ease and cost of administration.

28 (4) The report shall be presented to the legislature by September
29 1, 2001, with the recommendations of the department of natural
30 resources clearly identified. The department's recommendations must
31 include draft legislation as necessary for implementation of its
32 recommendations.

33 (5) In order to facilitate the participation of affected
34 stakeholders in the preparation of the report to the legislature, the
35 department of natural resources shall form a marina rent committee.
36 The committee consists of one representative with knowledge of
37 waterfront industries and economic principles from each of the
38 following groups: The Northwest marine trade association; the
39 association of independent moorages; the Puget Sound marina

1 association; an independent marina operator from a rural area selected
2 by the department of natural resources; the association of Washington
3 cities; the Washington public ports association; the association of
4 Washington counties; a member of the public who will represent the
5 objectives in RCW 79.90.455 (1), (3), and (4) and who is selected by
6 the department of natural resources; and the aquatic resources division
7 of the department of natural resources. The committee will assist the
8 staff and consultants of the department of natural resources to
9 assemble and evaluate relevant data, develop alternatives, and draft
10 the report.

11 **Sec. 2.** RCW 79.90.480 and 1998 c 185 s 2 are each amended to read
12 as follows:

13 Except as otherwise provided by this chapter, annual rent rates for
14 the lease of state-owned aquatic lands for water-dependent uses shall
15 be determined as follows:

16 (1)(a) The assessed land value, exclusive of improvements, as
17 determined by the county assessor, of the upland tax parcel used in
18 conjunction with the leased area or, if there are no such uplands, of
19 the nearest upland tax parcel used for water-dependent purposes divided
20 by the parcel area equals the upland value.

21 (b) The upland value times the area of leased aquatic lands times
22 thirty percent equals the aquatic land value.

23 (2) As of July 1, 1989, and each July 1st thereafter, the
24 department shall determine the real capitalization rate to be applied
25 to water-dependent aquatic land leases commencing or being adjusted
26 under subsection (3)(a) of this section in that fiscal year. The real
27 capitalization rate shall be the real rate of return, except that until
28 June 30, 1989, the real capitalization rate shall be five percent and
29 thereafter it shall not change by more than one percentage point in any
30 one year or be more than seven percent or less than three percent.

31 (3) The annual rent shall be:

32 (a) Determined initially, and redetermined every four years or as
33 otherwise provided in the lease, by multiplying the aquatic land value
34 times the real capitalization rate; and

35 (b) Adjusted by the inflation rate each year in which the rent is
36 not determined under subsection (3)(a) of this section.

37 (4) If the upland parcel used in conjunction with the leased area
38 is not assessed or has an assessed value inconsistent with the purposes

1 of the lease, the nearest comparable upland parcel used for similar
2 purposes shall be substituted and the lease payment determined in the
3 same manner as provided in this section.

4 (5) For the purposes of this section, "upland tax parcel" is a tax
5 parcel, some portion of which has upland characteristics. Filled
6 tidelands or shorelands with upland characteristics which abut state-
7 owned aquatic land shall be considered as uplands in determining
8 aquatic land values.

9 (6) The annual rent for filled state-owned aquatic lands that have
10 the characteristics of uplands shall be determined in accordance with
11 RCW 79.90.500 in those cases in which the state owns the fill and has
12 a right to charge for the fill.

13 ~~(7) ((For leases for marina uses only, beginning on June 11, 1998,~~
14 ~~the annual rental rates in effect on December 31, 1997, shall remain in~~
15 ~~effect until July 1, 1999, at which time the annual water dependent~~
16 ~~rent shall be determined by the method in effect at that time. In~~
17 ~~order to be eligible for the rate to remain at this level, a marina~~
18 ~~lease must be in good standing, meaning that the lessee must be current~~
19 ~~with payment of rent, the lease not expired or in approved holdover~~
20 ~~status, and the lessee not in breach of other terms of the agreement.~~

21 ~~(8) For all new leases for marinas, or any other water dependent~~
22 ~~use, issued after December 31, 1997, the initial annual water dependent~~
23 ~~rent shall be determined by the methods in subsections (1) through (6)~~
24 ~~of this section)) For leases for marina uses only, beginning January 1,~~
25 ~~2001, and effective through June 30, 2002, increases to the annual~~
26 ~~rental rates in effect on January 1, 2001, resulting from~~
27 ~~redetermination or adjustment under subsection (3) of this section are~~
28 ~~limited to twenty-five percent of the increase otherwise calculated~~
29 ~~under subsection (3) of this section. In order to be eligible for the~~
30 ~~limitation on rental increases, a marina lease must be in good~~
31 ~~standing, meaning that the lessee must be current with payment of rent,~~
32 ~~the lease not be expired unless it is in holdover status, the lessee~~
33 ~~not be in breach of other terms of the agreement, and the lessee must~~
34 ~~be willing to provide the department of natural resources with income~~
35 ~~and cost data suitable for appraisal. Beginning July 2002, until the~~
36 ~~next redetermination or adjustment of rent for each lease under~~
37 ~~subsection (3) of this section, annual rental rates for marina uses~~
38 ~~will be the full amount that they would have been for each marina had~~
39 ~~the limitation on rental increases never applied. The limitation on~~

1 rental increases does not apply to the initial rent determination for
2 a new marina lease nor to increases resulting from any change in a
3 lease not related to subsection (3) of this section.

4 NEW SECTION. **Sec. 3.** If specific funding for the purposes of this
5 act, referencing this act by bill or chapter number, is not provided by
6 June 30, 2001, in the omnibus appropriations act, this act is null and
7 void.

--- END ---