

HOUSE BILL REPORT

HB 1247

As Passed House:

February 10, 2003

Title: An act relating to the highest responsible bidder for sales of valuable materials from state-owned aquatic lands.

Brief Description: Determining a "highest responsible bidder" for valuable materials from state-owned aquatic lands.

Sponsors: By Representatives Eickmeyer, Schoesler, Rockefeller, Sump, Linville, Orcutt, Mielke and Woods; by request of Commissioner of Public Lands.

Brief History:

Committee Activity:

Agriculture & Natural Resources: 1/31/03 [DP].

Floor Activity:

Passed House: 2/10/03, 94-0.

Brief Summary of Bill

- Allows the Department of Natural Resources to consider, before rewarding a contract for the sale of valuable materials, whether a high bidder has within the past five years failed to execute other sales in which he or she was the high bidder.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: Do pass. Signed by 13 members: Representatives Linville, Chair; Rockefeller, Vice Chair; Schoesler, Ranking Minority Member; Holmquist, Assistant Ranking Minority Member; Kristiansen, Assistant Ranking Minority Member; Chandler, Eickmeyer, Grant, Hunt, McDermott, Orcutt, Quall and Sump.

Staff: Jason Callahan (786-7117).

Background:

The Legislature vested specific authority for the Department of Natural Resources (DNR) to sell timber and other valuable resources from state lands. The DNR sells a variety of

resources from state lands, including stone, gravel, and geoducks. Before valuable materials can be sold, the sale must be properly noticed so that the maximum number of potential buyers are aware of the pending sale. The DNR is required to publish a notice of sale in newspapers no less than twice within the four-week period leading up to a sale. In addition, the notice of sale must be posted in the DNR's Olympia office, and in both the DNR's regional office and the county auditor's office for the county in which the sale is occurring. The notice must include the exact location of each parcel offered for sale and the estimated volume of all valuable materials to be sold.

Most sales conducted by the DNR must be done at public auction and offered to the highest responsible bidder. However, the DNR does have the authority to offer a direct sale without notice or advertising for sales appraised at \$20,000 or less. Direct sales may only go forward after the DNR has established procedures that ensure competitive market prices and accountability.

Generally, sales are awarded to the highest responsible bidder; however, there is an enumerated list of factors, other than bid price, that the DNR may consider before awarding a sales contract. These include the bidder's ability to perform the contract, whether the bidder has previously complied with the terms of past contracts, whether the bidder has been convicted of a crime related to public lands, and whether the bidder is controlled by, or will subcontract with, bidders that are not responsible. If the DNR finds that the high bidder meets any of these criteria, it can offer the sale to the next highest bidder, or cancel the sale altogether.

Summary of Bill:

In addition to the final bid price, the DNR is allowed to consider whether a bidder for a sale of valuable materials has in the past five years failed to complete a sale that he or she was awarded. Failure to complete a sale includes not entering into the resulting contract, or not paying the difference between the deposit and the total amount due. If the DNR determines that the apparent high bidder fits this description, it may award the sale to the next responsible bidder or reject all bids. The DNR may only consider contract failures that occurred after December 31, 2003.

Appropriation: None.

Fiscal Note: Not Requested.

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

Testimony For: This bill provides the DNR with the discretionary authority it needs to help ensure that bidders for state-owned valuable materials have the honest intent to enter

into contracts and are not just using the bidding process to manipulate the market. It corrects current problems with the sale and harvest of geoducks and ensures that bidders have the best interest of the state's resources in mind.

Testimony Against: None.

Testified: Leigh Espy, Washington State Department of Natural Resources.