
**Agriculture & Natural Resources
Committee**

HB 2690

Brief Description: Modifying provisions concerning marina lease rates.

Sponsors: Representatives Eickmeyer, Sehlin, Haigh, Armstrong, Linville and Rockefeller.

Brief Summary of Bill

- Alters the formula applied to calculate the rent for Department of Natural Resources-leased marinas to be based on a percentage of a marina's income.
- Requires the Department of Natural Resources to recommend an appropriate formula for calculating marina rents to the 2005 Legislature.

Hearing Date: 1/30/04

Staff: Jason Callahan (786-7117).

Background:

The Legislature has delegated the management of state-owned aquatic lands to the Department of Natural Resources (DNR), with directions to encourage public use and access, foster water-dependent uses, ensure environmental protection, and utilize renewable resources. The DNR is further instructed to charge a rent to the users of state-owned aquatic lands, with different standards applying to different use types. Non-water dependent uses are charged the fair market value for the use of the land. Water dependent uses are charged rent according to a statutory formula.

Water dependent uses, defined as uses that cannot logically exist except on water, are assessed a rent that is associated with upland values. Generally, water dependent uses must pay a rent that is 30 percent of the assessed value of the adjacent upland parcel, plus a real capitalization rate. This formula is applied to calculate the rent for marinas who lease state-owned aquatic lands.

The 2003 Legislature passed SHB 1250 (Chapter 310, Laws of 2003), which created a possible mechanism for changing the marina rent formula to reflect a percentage of the annual gross revenue generated by a marina. The DNR was directed to develop a recommended formula for implementing this change in the rent formula. The DNR was asked to suggest a percentage, or range of percentages, to apply to a marina's gross revenue, a system for implementing the percentages, and a designation of the revenue sources that should be considered for rent

calculation purposes. Within the 2003 legislation was a statement of intent for the 2004 legislature to pass a second bill that would set the percentage of gross revenue in statute.

The 2003 legislation also required all marina lessees to return an income reporting form to the DNR. The reporting form was to be designed by the DNR, and could include information about the marina's income that would aid the DNR in satisfying its statutory directive. The legislation also included a provision that required the DNR to have returned to them income reporting forms from at least 75% of all marinas representing at least 90% of all marina revenues by July 1, 2003. If this threshold was not met, then the income-based model would not be applied and marinas would continue to be assessed rent based on a percentage of the value of the adjacent upland parcel.

The DNR has reported that the number of marinas returning the income reporting form to the DNR was far below the required threshold for changing the rent formula. Therefore, according to the 2003 legislation, the income-based model for rent calculation will not take effect and the DNR is relieved from their duty to recommend a proper percentage of income to set as a marina's rent.

Summary of Bill:

Lease Rate Changes

DNR lease rates for marinas will be calculated based on a percentage of their annual gross revenue as of July 1, 2005. Marinas are required to submit annual income reporting reports to the DNR that are certified by an accountant. The DNR may not require the income reporting forms to include information about restaurant or bar income, but may include information about other marina income streams. If a marina fails to submit an income reporting form, the DNR is authorized to conduct an audit. The initial rent calculation will be based on a marina's 2004 income data, and recalculated annually. At no time may the DNR charge a rent of less than \$500.

DNR Recommendations

The DNR is responsible for developing a set of recommendations to be delivered to the 2005 legislature. These recommendations include an identification of a percentage, or range of percentages, that would adequately maintain 2004 state proceeds from marina rents. The recommendations must also identify the appropriate marina revenue sources to which the percentage applies. When preparing the recommendations for the 2005 Legislature, the DNR is required to work with stakeholders, and rely on the marina income data collected pursuant to the legislation passed in 2003.

The Legislature intends to adopt legislation in 2005 that will establish in statute the percentage of a marina's income that will represent its lease, and the portions of a marina's income stream to which the percentage will be applied. If the 2005 Legislature fails to enact legislation, the DNR will be responsible for determining the marina lease formula.

Appropriation: None.

Fiscal Note: Requested on 1/20/04.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.