
**Technology, Energy &
Communications Committee**

HB 1623

Brief Description: Concerning fees for easements on state-owned aquatic lands.

Sponsors: Representative Morris.

Brief Summary of Bill

- Revises the methods used by the Department of Natural Resources in calculating administrative costs associated with granting public utility line easements on state-owned aquatic lands.
- Allows for public utility lines owned by non-governmental entities to receive easements on state-owned aquatic lands.
- Removes the expiration date of the fees.
- Allows for public utility line easements on state-owned aquatic lands to be less than 30 years.

Hearing Date: 1/26/07

Staff: Scott Richards (786-7156).

Background:

The Department of Natural Resources (Department) is responsible for managing, for the benefit of the public, state-owned aquatic lands. Aquatic lands means all tidelands, shorelands, harbor areas, and the beds of navigable waters.

As the manager of state-owned aquatic lands, the Department 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.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Department 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. The Department may withhold from leasing lands which it finds to have significant natural values, or may provide within any lease for the protection of such values.

Governmental entities may use state-owned aquatic lands for public utility lines as long as the use is consistent with statutory purposes for these lands and does not obstruct navigation or other uses. Public utility lines are utility lines owned by a public entity and may or may not serve citizens of the state.

Non-governmental entities may use 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 or other uses. Local public utility lines are utility lines owned by a non-governmental entity and provide service to citizens of the state.

For both governmental and non-governmental entities, utility lines include:

- pipes or similar structures for distribution of water;
- electricity;
- natural gas;
- telephone;
- other electronic communication; and
- sewers.

Administrative Costs and Easement Fees

In granting use of state aquatic lands to governmental entities, the Department may recover only its reasonable direct administrative costs incurred in processing and approving the request or application, and reviewing plans for construction of public utility lines. Direct administrative costs means the cost of hours worked directly on an application or request, based on salaries and benefits, plus travel reimbursement and other actual out-of-pocket costs. Direct administrative costs recovered by the Department must be deposited into the Resource Management Cost Account.

In granting use of state aquatic lands to non-governmental entities, the Department charges an easement fee according to the length of the easement:

- \$5,000 for easements that are no longer than one mile in length;
- \$12,500 for easements that are greater than one mile but less than five miles; and
- \$20,000 for easements that are five miles or more in length.

Easement fees are 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.

Currently, the adjusted easement fees are as follows:

- \$5,400 for easements that are no longer than one mile in length;
- \$13,500 for easements that are greater than one mile but less than five miles; and
- \$21,600 for easements that are five miles or more in length.

In addition to the easement fee, the Department may recover from a non-governmental entity its direct administrative costs associated with receiving, approving the application and reviewing plans for, and construction of local public utility lines. Direct administrative costs means the cost

of hours worked directly on an application, based on salaries and benefits, plus travel reimbursement and other actual out-of-pocket costs. Direct administrative costs recovered by the Department must be deposited into the Resource Management Cost Account.

These fee structures for governmental and non-governmental entities will expire on July 1, 2008.

Expedited Processing of Application

Upon request of the applicant, the Department may offer expedited processing of applications, reaching a decision within 60 days. The Department may charge an additional fee for expedited processing. The fee for expedited processing is the greater of: (a) ten percent of the combined total of the easement fee and direct administrative costs; or (b) the cost of staff overtime, calculated at time and one half.

Summary of Bill:

Expansion of Eligible Public Utility Lines

Non-governmental entities may use state-owned aquatic lands for public utility lines that may or may not serve citizens of the state as long as the use is consistent with statutory purposes for these lands and does not obstruct navigation or other uses.

Calculating Administrative Costs

Administrative costs incurred processing public utility line easement applications are calculated as a percentage of the easement fee based on the length of the crossing.

In granting use of state-owned aquatic lands to public utility lines owned by non-governmental entities, the administrative costs are equivalent to 20 percent of the easement fee with adjustments based on the most recently published consumer price index.

In granting use of state-owned aquatic lands to public utility lines owned by governmental entities, the Department recovers only its administrative costs incurred in processing and approving the request or application. The administrative costs are calculated based on the easement fee associated with the length of that easement, if governmental entities were subject to the easement fee.

Expiration Date of Easement Fee and Administrative Costs

The expiration date for the easement fee structure and the calculation of administrative costs for both governmental and non-governmental entities is removed.

Term of an Easement

The term of an easement may be 30 years or less.

Expedited Applications

The application charge for expedited processing is 10 percent of the combined total of the easement fee and administrative costs.

Appropriation: None.

Fiscal Note: Requested on January 25, 2007.

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