
HOUSE BILL 2470

State of Washington

60th Legislature

2008 Regular Session

By Representatives Upthegrove, Dickerson, Hinkle, VanDeWege, Kenney, Kretz, Chase, and Warnick; by request of Department of Natural Resources

Prefiled 12/20/07. Read first time 01/14/08. Referred to Committee on Ecology & Parks.

1 AN ACT Relating to clarifying the authority of the department of
2 natural resources to issue lesser contractual agreements within
3 existing authorities for state-owned aquatic lands; amending RCW
4 79.105.210; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
7 clarify the leasing authority of the department of natural resources.
8 In *Northlake Marine Works, Inc., v. Department of Natural Resources*,
9 134 Wn. App. 272 (2006), the court stated that statutory references to
10 the term "lease" without reference to other contractual arrangements
11 should be construed narrowly to mean just leases. This act clarifies
12 that the department of natural resources' leasing authority includes
13 the ability to issue contractual agreements that convey less than a
14 full leasehold interest.

15 **Sec. 2.** RCW 79.105.210 and 2005 c 155 s 143 are each amended to
16 read as follows:

17 (1) The management of state-owned aquatic lands shall preserve and
18 enhance water-dependent uses. Water-dependent uses shall be favored

1 over other uses in state-owned aquatic land planning and in resolving
2 conflicts between competing lease applications. In cases of conflict
3 between water-dependent uses, priority shall be given to uses which
4 enhance renewable resources, water-borne commerce, and the navigational
5 and biological capacity of the waters, and to statewide interests as
6 distinguished from local interests.

7 (2) Nonwater-dependent use of state-owned aquatic lands is a low-
8 priority use providing minimal public benefits and shall not be
9 permitted to expand or be established in new areas except in
10 exceptional circumstances where it is compatible with water-dependent
11 uses occurring in or planned for the area.

12 (3) The department shall consider the natural values of state-owned
13 aquatic lands as wildlife habitat, natural area preserve,
14 representative ecosystem, or spawning area prior to issuing any initial
15 lease or authorizing any change in use. The department may withhold
16 from leasing lands which it finds to have significant natural values,
17 or may provide within any lease for the protection of such values.

18 (4) The power to lease state-owned aquatic lands is vested in the
19 department, which has the authority to make leases upon terms,
20 conditions, and length of time in conformance with the state
21 Constitution and chapters 79.105 through 79.140 RCW. The authority to
22 lease as provided in chapters 79.105 through 79.140 RCW includes the
23 authority to issue other lesser contractual agreements including but
24 not limited to easements, licenses, permits, and rights-of-entry,
25 unless the context clearly dictates otherwise.

26 (5) State-owned aquatic lands shall not be leased to persons or
27 organizations which discriminate on the basis of race, color, creed,
28 religion, sex, age, or physical or mental handicap.

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