

HOUSE BILL REPORT

HB 1077

As Reported by House Committee On:
Ecology & Parks

Title: An act relating to aquatic lands lease rates for marinas.

Brief Description: Regarding aquatic lands lease rates for marinas.

Sponsors: Representatives Blake, Warnick, O'Brien, McCune, Alexander and Roach.

Brief History:

Committee Activity:

Ecology & Parks: 1/23/09, 2/20/09 [DPS].

Brief Summary of Substitute Bill

- Changes the formula for determining the lease rates for marinas located on state-owned aquatic lands to be based on a percentage of a marina's gross revenue and not on the appraised value of adjacent upland parcels.
- Requires the Department of Natural Resources to develop a recommended formula with stakeholders for calculating rents based on revenue that ensures initial revenue neutrality.

HOUSE COMMITTEE ON ECOLOGY & PARKS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Upthegrove, Chair; Rolfes, Vice Chair; Chase, Dickerson, Dunshee, Eddy, Finn, Hudgins and Morris.

Minority Report: Do not pass. Signed by 5 members: Representatives Short, Ranking Minority Member; Kretz, Kristiansen, Orcutt and Shea.

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,

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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 users, such as marinas, must pay a rent that is based on the assessed value of the nearest upland parcel. After an initial rent amount is determined, the DNR is directed to apply a real capitalization rate every four years.

Summary of Substitute Bill:

The formula for determining the lease rates for marinas located on state-owned aquatic lands is changed as of July 1, 2010. The change in lease rates affects any private facility that provides boat moorage space, fuel, or other commercial services.

The new lease rate paid by marinas located on state-owned aquatic lands is to be based on a percentage of a marina's gross revenue. The rent is to be recalculated each year based on the revenues of the marina in the previous year as reported to the DNR on mandatory accountant-certified income reporting forms or through an audit process, but may not be less than \$500. In addition to the base lease rate, the rent paid by marinas is also to include a reimbursement of the direct administrative costs incurred by the DNR in executing and managing the leases.

If the Legislature fails to take action in the 2010 legislative session that establishes the percentage of revenue that will serve as the base marina lease rate, then the DNR is provided with the authority to adopt the revenue percentage in rule. Prior to the start of the 2010 legislative session, the DNR must develop a recommended formula with stakeholders for calculating rents based on revenue that ensures initial revenue neutrality.

The recommendations must include not only the percentage of revenue that will serve as the base lease rate, but also a system of implementing the new formula and a process for designating revenue sources to be included in the formula.

Substitute Bill Compared to Original Bill:

In the original bill, lease rates paid by marinas located on state-owned aquatic lands were to be based on the average rate charged for each marina for moorage within set geographic zones determined by the DNR.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 20, 2009.

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

Staff Summary of Public Testimony:

(In support) The issue of marina lease rates is longstanding. The current formula, developed in 1984, creates a situation where two similarly situated marinas may pay very different lease rates. The bill is designed to eliminate inequities and competitive disadvantages among marinas.

Lease rates skyrocketed when property values increased. The rapid increase in property values was exaggerated on the waterfront parcels abutting marinas. The corresponding increases in lease rates were too severe to pass along to the marina customers. Revenue generation to the DNR as a result of recent property value increases will be retained, but the new lease formula will create a level playing field for marinas located within the same zone. The DNR will have a steady revenue flow with low overhead costs.

The bill only applies to private marinas. The scope of the bill is not intended to include ports, yacht clubs, or city-owned marinas.

(With concerns) It is a challenge to devise an equitable lease formula without causing harm to some parties. Reducing lease rates for some marinas means that others will see an increase in their lease rates. It is hard to judge the impact of the bill without knowing the size of each geographic zone identified by the DNR.

There are only a few city-owned marinas, and they are managed just like private marinas. As such, city-owned marinas should have their lease rate calculated in the same manner as the private marinas. Not including city-owned marinas in the bill would lead to a competitive disadvantage for the city-owned marinas.

(Opposed) It is important that the trust be kept whole, the public benefit of aquatic land leases be maintained, and that any solution has long-term revenue neutrality for the DNR. There seems to be some effect on the Aquatic Lands Enhancement Account.

Persons Testifying: (In support) Representative Blake, prime sponsor; and Ted Johnson and John Woodring, Simon and Johnson.

(With concerns) Jim King, Recreational Boating Association of Washington; Cliff Webster, Northwest Marine Trade Association; and Joe Dusenbury, City of Des Moines.

(Opposed) Rich Doenges and Heath Packard, Department of Natural Resources.

Persons Signed In To Testify But Not Testifying: None.