

# SENATE BILL REPORT

## SB 5255

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As of January 28, 2009

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

**Brief Description:** Regarding aquatic lands lease rates for marinas.

**Sponsors:** Senators Jacobsen, Swecker, Regala, Morton, Kilmer, Pridemore and Shin.

**Brief History:**

**Committee Activity:** Natural Resources, Ocean & Recreation: 1/28/09.

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### SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

**Staff:** Curt Gavigan (786-7437)

**Background:** General aquatic lands management authority. The Legislature has designated the Department of Natural Resources (DNR) as manager of the state's aquatic lands. DNR manages over two million acres of tidelands, shorelands, and bedlands. This includes the beds of navigable rivers and lakes, along with the beds below Puget Sound.

By statute, the management of aquatic lands must support a balance of goals. DNR must encourage public use and access, water-dependent uses, utilization of renewable resources, environmental protection, and revenue generation. Revenues generated from the state's aquatic lands are used for land management and public benefits, such as shoreline access, environmental protection, and recreational opportunities.

Water-dependent lease rates. DNR has general leasing authority for aquatic lands. The Legislature has directed DNR, however, to favor water-dependent uses. A water dependent use is a use that cannot logically exist in any location but on water.

State-owned aquatic land lease rates for water-dependent uses are determined using a statutory method, based largely on the value of an associated upland parcel. The formula generally sets these rates at 30 percent of the associated upland parcel value multiplied by the real capitalization rate. Once an initial lease rate is determined, rents are adjusted annually for inflation. DNR re-calculates lease rates every four years.

**Summary of Bill:** The method for determining aquatic land lease rates for marinas is changed. Instead of establishing marina lease rates individually based on the associated

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upland parcel value of each marina, DNR must base rates for marinas on a square footage rate applied uniformly throughout a geographic zone.

DNR must adopt rules establishing geographic zones in which marinas will pay uniform square footage lease rates. In order to establish lease rates for marinas, DNR must:

- calculate the total rent for aquatic lands leased for marinas in the geographic zone;
- divide the total rent by the total square footage of aquatic lands under lease for marinas in the zone, which results in a lease rate per square foot to be applied throughout the zone; and
- for each marina, multiply the square foot lease rate by the amount of square feet under the lease.

Every four years after establishing the initial rental rate, DNR must adjust the square foot rental rate for a geographic zone based on the change in the average marina moorage rate within the zone. This adjustment may not exceed 5 percent. In every other year, DNR must adjust the rental rate for inflation.

If the initial rate established under the new formula would result in a lease rate more than 33 percent above or below the prior rent, DNR must gradually implement the new rate. In such cases, the rent may not increase or decrease more than 33 percent of the difference between the new and prior rent in any year.

The term "marina" is defined as a private facility providing boat moorage space, fuel, or commercial services, including overnight or live-aboard accommodations.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony:** PRO: The system is broken because marinas within the same marketplace pay rent based on upland values, which does not necessarily correspond to the amount marinas charge for moorage. This bill is designed to create an even playing field. Marina owners have invested in upland improvements, but have been penalized for these investments by an increase in their aquatic lands lease rents. Often, these rent increases exceed increases in what they can charge for moorage.

CON: DNR has conducted reviews of its leasing system, as have other entities. Despite the imperfection of the current process, DNR and stakeholders have not been able to agree on an alternative. DNR thinks the current system is equitable, though work can be done to incorporate geographic lease rate averaging into the process. DNR requests that it be given time to develop a model to incorporate some form of geographic averaging for marinas.

OTHER: Other groups question whether they want to have their rents calculated under this new process, and want to keep discussing the issue.

**Persons Testifying:** PRO: Ted Johnson, Simon Johnson, LLC; John Woodring, Marina Operator; Joe Dusenbury, City of Des Moines.

CON: Rich Doenges, DNR.

OTHER: Jim King, Recreational Boating Association of Washington; Cliff Webster, Northwest Marine Trade Association.