

SENATE BILL REPORT

SB 5022

As Reported by Senate Committee On:
Natural Resources & Parks, February 4, 2015

Title: An act relating to providing fee immunity for certain city, town, and county water facilities.

Brief Description: Providing fee immunity for certain city, town, and county water facilities.

Sponsors: Senators Angel, Lias and Rolfes.

Brief History:

Committee Activity: Natural Resources & Parks: 1/14/15, 2/04/15 [DPS, w/oRec].

SENATE COMMITTEE ON NATURAL RESOURCES & PARKS

Majority Report: That Substitute Senate Bill No. 5022 be substituted therefor, and the substitute bill do pass.

Signed by Senators Pearson, Chair; Danel, Vice Chair; Chase, Hewitt, McAuliffe and Warnick.

Minority Report: That it be referred without recommendation.

Signed by Senator Hatfield, Ranking Minority Member.

Staff: Curt Gavigan (786-7437)

Background: Authority for Local Moorage Facilities. Along with several other public entities, statute currently provides a county, city, or town with the specific authority to:

- operate a moorage facility, defined as a property or facility capable of use to moor or store vessels; and
- adopt rules necessary for rental and use of that moorage facility, including the collection of charges.

The statutory schemes governing counties, cities, and towns also include individual authorizations to construct and manage moorage and other recreational facilities.

Limited Landowner Liability for Recreational Uses. Under Washington tort law, landowners generally owe persons invited to enter their land a duty to use ordinary care to keep that land

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in a reasonably safe condition. This includes an affirmative duty to inspect the premises and discover dangerous conditions.

The Legislature modified this general rule through what is known as the Recreational Use Immunity Statute (statute). The statute generally provides protection from tort liability for landowners who allow public use of their lands and do not charge a fee. However, in a few circumstances landowners may charge a fee and still receive protection under the statute. These situations include the following:

- a fee of up to \$25 for cutting, gathering, and removing firewood;
- some state-issued recreational licenses and permits; and
- a daily charge not to exceed \$20 for access to certain public off-road vehicle facilities.

The liability protection offered under the statute is not absolute. The statute does not protect landowners from certain dangerous conditions for which warning signs have not been conspicuously posted. Additionally, landowners who intentionally injure recreational users receive no protection.

Summary of Bill (Recommended Substitute): Addresses Local Moorage Fees and Limited Liability Protection. A county, city, or town may impose a fee of up to \$20 per day or \$100 annually to access or use a moorage facility while receiving limited liability protection. Every two years the maximum authorized daily fee increases by \$1 and the maximum annual fee increases by \$5.

The limited liability protection provided is for unintentional injuries to users, unless an injury is caused by a known dangerous artificial latent condition for which warning signs have not been conspicuously posted.

Specifically Authorizes Local Moorage Facilities. Specific additional authority is provided to a county, city, and town to plan for, construct, operate, and maintain moorage facilities for recreational boating activities. These entities may also charge fees for access to or use of these facilities under their existing authority.

EFFECT OF CHANGES MADE BY NATURAL RESOURCES & PARKS COMMITTEE (Recommended Substitute):

- Specifies that the fees charged are based on existing local authority, and that the bill is not creating new fee authority;
- Removes a reference to the recreational use immunity statute and adds limited liability language to the bill; and
- Specifies that changes in maximum fees over time relate to limited liability, and not to the local authority to impose fees.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Original Bill: PRO: Gig Harbor is exploring how it can improve amenities at its dock. Prior to 2000, the city had charged for moorage to help provide services, but stopped after a supreme court case due to a fear of liability. There is a public policy advantage to facilitate local governments improving boating opportunities.

CON: Charging for the use of moorage facilities is essentially a business-invitee relationship. The intent of the recreational use immunity law is to provide limited liability protection to those who allow free recreation.

Persons Testifying: PRO: Senator Angel, prime sponsor; Ron Williams, city of Gig Harbor.

CON: Larry Shannon, WA Assn. for Justice.