

SENATE BILL REPORT

SB 6500

As of January 28, 2016

Title: An act relating to aquatic lands management.

Brief Description: Concerning aquatic lands management.

Sponsors: Senator Miloscia.

Brief History:

Committee Activity: Accountability & Reform: 1/27/16.

SENATE COMMITTEE ON ACCOUNTABILITY & REFORM

Staff: Curt Gavigan (786-7437)

Background: Department of Natural Resources' (DNR) Aquatic Lands Management. The Legislature has designated the Department of Natural Resources (DNR) as manager of state-owned aquatic lands. DNR manages over 2 million acres of tidelands, shorelands, and bedlands. This includes the beds of navigable rivers and lakes, along with the beds below the Puget Sound.

The management of aquatic lands must support a balance of statutory goals, including the encouragement of public access, the fostering of water-dependent uses, the utilization of renewable resources, environmental protection, and the generation of revenue.

A variety of specific lease and easement statutes apply to DNR's aquatic land management activities. A general easement statute allows DNR to grant easements and rights in public land for the full market value of the interest granted.

Board of Natural Resources (Board). The Board is composed of six members: the Governor or a designee; the Superintendent of Public Instruction; the Commissioner of Public Lands; leads from the University of Washington and Washington State University forestry and natural resources programs; and a county representative.

The Board has several different roles, including:

- approving the sale of valuable materials from upland trust lands, which include timber sales;
- authorizing upland trust land transactions, such as sales or exchanges;

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- serving as the Board of Geographic Names; and
- serving as the constitutionally created Harbor Line Commission, which establishes and relocates harbor lines to define boundaries for commerce and navigation in navigable waters.

Baldrige Performance Assessments. A 1987 act established a federal program to evaluate management quality of U.S. businesses. Both the Baldrige Performance Excellence Program and the Malcolm Baldrige National Quality Award are administered by the National Institute of Standards and Technology, within the U.S. Department of Commerce. The program currently publishes performance excellence frameworks used by trained examiners to evaluate management in both for-profit and nonprofit organizations, including government entities. Following an assessment, an examiner scores an organization's management quality.

Summary of Bill: Modifies DNR's Authority to Grant Easements or Other Rights to Aquatic Lands. DNR may not grant an easement or other right in state-owned aquatic lands under its general public lands easement authority unless:

- prior to the transaction, the Board reviews and approves DNR's full market value determination; and
- the final rent or rate agreed to by DNR is within 20 percent of the full market value determination approved by the Board.

Provides for a Performance Audit by the State Auditor's Office (SAO). By December 31, 2016, the SAO must conduct a performance audit of DNR's contract management procedures for state-owned aquatic lands, including review of the following:

- DNR's process for determining fair market value;
- contract administration and contract closeout procedures for contracts entered into for the purpose of a fair market value determination and also for the sale, lease, or other grant of rights to state-owned aquatic lands;
- existing DNR policy and procedures to review and ensure it follows contract management best practices, including contract review and appeals processes.

Directs a Baldrige Performance Assessment. By December 31, 2016, DNR must report a study on application of the Baldrige quality management framework on its activities. By December 31, 2017, DNR must undergo a Baldrige assessment of its operations, and repeat the assessment every two years afterwards.

DNR must set a goal of achieving a 60 percent Baldrige assessment score within 10 years of its first Baldrige assessment. Once achieved, DNR must apply for a Malcolm Baldrige national quality award. If DNR cannot achieve its goal, it must attempt to achieve certification under another internationally recognized quality management system.

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: CON: DNR has concerns about the limited flexibility for negotiation of aquatic easements and rights of way, particularly about potential downward pressure on pricing. There are also concerns that the need to go before the Board of Natural Resources could create difficulty getting timely approval for transactions, particularly for habitat projects. Finally, the Baldrige process would come with a workload and fiscal impact.

OTHER: There is no concern with the performance management components of the bill, but questions about how the bill's language on easements and rights of way would impact the University of Washington. There is a desire to make sure there is flexibility to meet the school's needs.

Persons Testifying: CON: Krisin Swenddal, Department of Natural Resources.

OTHER: Genesee Adkins, University of Washington.

Persons Signed In To Testify But Not Testifying: No one.