

HOUSE BILL REPORT

HB 1001

As Reported by House Committee On:
Technology & Economic Development
Appropriations

Title: An act relating to utility easements on state-owned aquatic lands.

Brief Description: Concerning utility easements on state-owned aquatic lands.

Sponsors: Representatives Morris, Smith, Tarleton, Haler and Doglio.

Brief History:

Committee Activity:

Technology & Economic Development: 1/12/17, 1/19/17 [DP];
Appropriations: 2/6/17, 2/15/17 [DP].

Brief Summary of Bill

- Extends the expiration date for the fee structure established for easements of state-owned aquatic lands for local public utility lines owned by nongovernmental entities from July 1, 2017, to July 1, 2030.
- Requires legislative review of the granting of easements on state-owned aquatic lands for local public utility lines owned by nongovernmental entities every four years beginning December 31, 2021.

HOUSE COMMITTEE ON TECHNOLOGY & ECONOMIC DEVELOPMENT

Majority Report: Do pass. Signed by 15 members: Representatives Morris, Chair; Kloba, Vice Chair; Tarleton, Vice Chair; Smith, Ranking Minority Member; DeBolt, Assistant Ranking Minority Member; Doglio, Fey, Harmsworth, Hudgins, Manweller, McDonald, Nealey, Santos, Slatter and Steele.

Staff: Nikkole Hughes (786-7156).

Background:

The Department of Natural Resources (DNR) is responsible for managing state-owned aquatic lands to provide a balance of public benefits to the state. State-owned aquatic lands

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

include all tidelands, shorelands, harbor areas, beds of navigable waters, and waterways owned by the state and administered by the DNR or managed by a port district. Management of state-owned aquatic lands must, at a minimum, encourage direct public use and access, foster water-dependent uses, ensure environmental protection, and utilize renewable resources.

Among the water-dependent uses fostered by the DNR's management of state-owned aquatic lands is the use of those lands for public utility lines. "Public utility lines" means pipes, conduits, and similar facilities for distribution of water, electricity, natural gas, telephone, other electronic communication, and sewers.

The use of state-owned aquatic lands for local public utility lines owned by a nongovernmental entity is granted in the form of an easement. Until July 1, 2017, the charge for the term of an easement is determined as follows:

- \$5,000 for individual easement crossings that are no longer than one mile in length;
- \$12,500 for individual easement crossings that are more than one mile but less than five miles in length; or
- \$20,000 for individual easement crossings that are five miles or more in length.

The charge for easements must be adjusted annually by the rate of yearly increase in the most recently published consumer price index-all urban consumers for the Seattle-Everett Standard Metropolitan Statistical Area, over the consumer price index for the preceding year for the state of Washington, as compiled by the United States Bureau of Labor Statistics.

With the exception of the revenue portion reserved for the DNR's management costs, revenue generated from the state's aquatic land management activities is deposited in the Aquatic Lands Enhancement Account (ALEA) and is generally directed to be used for public benefits, such as shoreline access, environmental protection, and recreational opportunities.

By December 31, 2016, the Legislature must review the granting of easements on state-owned aquatic lands for local public utility lines owned by nongovernmental entities. The Legislature's review must include a determination of whether all applications for easements are processed within 120 days for normal processing of applications and 60 days for expedited processing of applications, and whether the granting of easements generates reasonable income for the ALEA.

Summary of Bill:

The fee structure for easements of state-owned aquatic lands for local public utility lines owned by nongovernmental entities remains in effect until July 1, 2030.

The charge for easements must be adjusted annually by the rate of yearly change in the most recently published Seattle-Tacoma-Bremerton consumer price index-all urban consumers, over the consumer price index for the same period of the preceding year for the state of Washington, as compiled by the United States Bureau of Labor Statistics.

Beginning December 31, 2021, the Legislature must review the granting of easements on state-owned aquatic lands for local public utility lines owned by nongovernmental entities every four years.

Appropriation: None.

Fiscal Note: Available.

Effective Date: 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 framework for granting easements on state-owned aquatic lands that this bill continues has provided a good deal of certainty to the industry. Using this framework will allow the DNR to continue to provide that level of certainty. This framework has been reviewed three times by the Legislature, and it has been continued each time. This bill will extend this ongoing review process until 2030. The DNR has already implemented changes to its tracking system that will align with this bill.

(Opposed) None.

Persons Testifying: Representative Morris, prime sponsor; Michal Rechner, Washington Department of Natural Resources; and Ron Main, Broadband Communications Association of Washington.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass. Signed by 32 members: Representatives Ormsby, Chair; Robinson, Vice Chair; MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member; Bergquist, Buys, Caldier, Cody, Condotta, Fitzgibbon, Haler, Hansen, Harris, Hudgins, Jinkins, Kagi, Lytton, Manweller, Nealey, Pettigrew, Pollet, Sawyer, Schmick, Senn, Springer, Stanford, Sullivan, Taylor, Tharinger, Vick, Volz and Wilcox.

Staff: Dan Jones (786-7118).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Technology & Economic Development:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) There was a backlog at the DNR in the last decade for applications for easements on state-owned aquatic lands for critical infrastructure. The policy being extended by this bill was the solution to that backlog. This is the third performance review to see if the DNR is meeting the performance metrics in the original law.

The DNR has granted 81 easements over the last five years, for total revenue of roughly \$450,000. The policy in this bill gives certainty to the industry while providing a fair return to the state for the use of state-owned aquatic lands.

(Opposed) None.

Persons Testifying: Representative Morris, prime sponsor; and Michal Rechner, Department of Natural Resources.

Persons Signed In To Testify But Not Testifying: None.