

# HOUSE BILL REPORT

## HB 1801

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**As Reported by House Committee On:**  
Environment

**Title:** An act relating to city use of state-owned aquatic lands for a publicly owned marina.

**Brief Description:** Concerning city use of state-owned aquatic lands for a publicly owned marina.

**Sponsors:** Representatives Hayes, Orwall, Smith and Gregerson.

**Brief History:**

**Committee Activity:**

Environment: 2/7/17, 2/14/17 [DP].

**Brief Summary of Bill**

- Broadens and extends the rent exception for certain cities that rent state-owned aquatic lands for the purpose of operating a publicly-owned marina.

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### HOUSE COMMITTEE ON ENVIRONMENT

**Majority Report:** Do pass. Signed by 9 members: Representatives Fitzgibbon, Chair; Peterson, Vice Chair; Taylor, Ranking Minority Member; Maycumber, Assistant Ranking Minority Member; Buys, Dye, Fey, Kagi and McBride.

**Staff:** Robert Hatfield (786-7117).

**Background:**

Leases of State-Owned Aquatic Lands.

The Department of Natural Resources (DNR) manages aquatic land leases. The DNR must favor water-dependent uses for such leases, which are uses that cannot logically exist in any location but on water. For example, the DNR may lease aquatic lands to cities and private organizations for the purpose of a marina.

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*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.*

Rent for water-dependent aquatic lands leases is determined by a statutory formula, which is based primarily on the value of an associated upland parcel. The DNR must lease parcels used for nonwater-dependent uses at fair market value.

In 2008 the Legislature approved a 10-year release from the obligation to pay rent for city-operated marinas with a city population between 20,000 and 25,000. This exception expires July 1, 2019.

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**Summary of Bill:**

The DNR is authorized to enter into a reduced fee lease of state-owned aquatic lands with a city whose population is between 20,000 and 35,000, for the purpose of operating a publicly-owned marina.

No rent is due the state under such a lease for the period between the effective date of the act and July 1, 2029.

A city choosing to enter into such a lease must do so within three years of the effective date of the act.

If a city chooses to enter into such a lease, the city may not apply for grants from the Aquatic Lands Enhancement Account (ALEA) during the rent-free period of the lease.

For any existing lease that would otherwise satisfy the criteria of the act, the DNR is directed to amend the lease in order to comply with the act.

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**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 is a substantial difference in programming between a public marina and private marina. Oak Harbor is a working class city. The rent relief that Oak Harbor has received has enabled Oak Harbor to undertake environmental mitigation and offer greater programming. The Oak Harbor marina acts as environmental steward on behalf of the state, including free recycling of materials, free sewage pump-out, and assisting the state in implementing the Shoreline Management Act. They have a free boat launch and support recreational opportunities like fishing, picnicking, and sailing programs.

The Des Moines marina is the only public marina between Seattle and Tacoma. They hold special events, create recreational opportunities, and serve as an emergency management staging area. Last summer, the Des Moines marina was one of four locations in western Washington selected as a Pokémon-Go site. Des Moines received a 600 percent rent increase from the DNR in 2012. Rent to the DNR now consumes 25 percent of the net revenue from the Des Moines marina. Des Moines is at its bonding capacity now, and if the bill passes, that would free Des Moines up to make more capital investments in the marina. The Des Moines marina provides public access and a public benefit, and would like to be treated more like a port district, which doesn't pay a fee. Port districts have a duty to provide access, and Des Moines sees itself in that same position. A significant portion of the rent the DNR receives goes to enhancing access to aquatic lands, and Des Moines is already working to provide that access. Des Moines represents less than 3 percent of all the available slips in Puget Sound, and so the Des Moines marina is not large enough to influence the market. Des Moines's decisions are driven by what offers the best access to the community.

(Opposed) A private contractor manages the Tacoma marina under the contract, which pays the full DNR rental rate, and still returns a profit to Tacoma. Tacoma also promotes public access and hosts community events. A city-owned marina looks much like a privately-owned marina; it has gates and boats. If cities don't pay rent for aquatic lands, they are not contributing to the ALEA, and the ALEA pot gets smaller for everybody else. Tacoma is not any less economically disadvantaged than Des Moines or Oak Harbor. Many marinas pay the DNR lease fees, and they also contribute to the community. Other city-owned marinas pay rent to the DNR for their marinas, including Tacoma, Seattle, Anacortes, Richland, Marysville, and Gig Harbor. If the intention is to treat cities like ports, then all cities should be treated like ports. The question is not whether marinas do good work; there are also other policy considerations to be weighed.

The DNR leases aquatic lands for many purposes, and this legislation would create a disparity. All marinas provide essentially the same service; they provide boat slips for pay. The DNR does provide rent-free leases to anybody who doesn't charge for access, but if the lessee charges a fee, then the DNR gets a nominal lease fee. Revenue from leases of state-owned aquatic lands funds the ALEA. The ALEA, in turn, funds docks, restoration projects, hatchery production, shellfish management, and aquatic invasive species removal, among other things. The fiscal impact of this bill would be \$1.6 million over 10 years. It makes sense to treat all lessees equally. The Legislature set up the two-track aquatic lands leasing system, one for cities and one for ports, in 1983, in part because of the economic development mission of ports, and in part because ports had already been doing aquatic lands management. The method of calculating rental rates is set in statute; the DNR looks at the rental value of the adjacent upland parcel and discounts that rate by 70 percent. The recent rental increase for Des Moines was related to an updated value of the upland parcel, as well as the fact that the public use and access discount Des Moines had received for a number of years had not matched with the public use and access Des Moines was providing.

**Persons Testifying:** (In support) Representative Hayes, prime sponsor; Steve Powers, City of Oak Harbor; Michael Matthias and Conner Edwards, City of Des Moines; and Joe Dusenbury, City of Des Moines Marina.

(Opposed) Dwight Jones, Elliot Bay Marinas; Kristin Swenddal, Department of Natural Resources; and Doug Levy, Recreational Boating Association of Washington.

**Persons Signed In To Testify But Not Testifying:** None.