

SENATE BILL REPORT

ESHB 1849

As Passed Senate, April 11, 2019

Title: An act relating to revising the lease terms for managing first-class unplatted tidelands and shorelands.

Brief Description: Revising the lease terms for managing first-class unplatted tidelands and shorelands.

Sponsors: House Committee on Environment & Energy (originally sponsored by Representatives Lekanoff, Chapman, Fitzgibbon and Doglio; by request of Department of Natural Resources).

Brief History: Passed House: 3/12/19, 98-0.

Committee Activity: Agriculture, Water, Natural Resources & Parks: 3/28/19, 4/02/19 [DP].

Floor Activity:

Passed Senate: 4/11/19, 46-0.

Brief Summary of Bill

- Modifies the maximum length of leases and re-leases of certain tidelands and shorelands, aligning lease terms for platted and unplatted aquatic lands.
- Prohibits the Department of Natural Resources from leasing or re-leasing first-class tidelands or shorelands where the sole basis of the state's title is adverse possession.

SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

Majority Report: Do pass.

Signed by Senators Van De Wege, Chair; Salomon, Vice Chair; Warnick, Ranking Member; Honeyford, McCoy, Rolfes and Short.

Staff: Jeff Olsen (786-7428)

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.

Background: Aquatic lands are generally managed by the state and protected for the common good. The Legislature has designated the Department of Natural Resources (DNR) as the manager of the more than 2.6 million acres of state-owned aquatic lands. In managing these lands, DNR must support a balance of use demands and statutory goals such as public use, environmental protections, trade, transportation, and generating revenue consistent with those goals. DNR must also establish standards for determining equitable and predictable lease rates for users of state-owned aquatic lands.

Aquatic lands include the lands beneath navigable marine salt and fresh waters of the state. There are three categories of aquatic lands: tidelands, shorelands, and bedlands. Tidelands are submerged lands and beaches that are exposed and submerged with the ebb and flow of the tides. Shorelands are the submerged lands lying along the edge of a river or lake, between the line of ordinary high water and the line of navigability. Tidelands and shorelands in front of or within two miles of a city are considered first-class tidelands and shorelands, and those lands more than two miles from a city are considered second-class tidelands and shorelands. Bedlands are aquatic lands submerged at all times beneath navigable waters.

Platting is the process of making a plan or map showing the division of a piece of land into individual lots or subdivisions. DNR is required to plat all previously unplatted first-class tidelands and shorelands simultaneously with the establishment of harbor lines and the determination of harbor areas. DNR may, but is not required to, plat second-class tidelands and shorelands.

Unplatted, first-class tidelands and shorelands may be leased for a maximum period of 10 years. The maximum term for a re-lease of unplatted, first-class tidelands and shorelands is 5 years. The maximum lease term for platted tidelands and shorelands is generally 55 years. Bedlands in front of second-class tidelands or shorelands may be leased for a maximum period of 30 years. Bedlands in front of leased unplatted first-class tidelands or shorelands may be leased for a maximum period of 10 years.

Summary of Bill: Leases of state-owned, first-class, unplatted tidelands and shorelands are modified from a term not to exceed 10 years to a term no longer than 55 years. A re-lease of state-owned, first-class, unplatted tidelands and shorelands are modified from a term not to exceed 5 years to a term no longer than 55 years. Leases of state-owned bedlands must be for a term of no longer than 30 years, irrespective of the type of tidelands or shorelands fronted by the bedlands. Failure to use aquatic lands leased for booming purposes for a period of 3 years shall result in forfeiture of the lease, and the land shall revert to the state. DNR may not lease or re-lease any unplatted, first-class tidelands or shorelands where the sole basis of the state's title is adverse possession of the tidelands or shorelands to be leased.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: The changes in the bill modify shorter leases to create greater financial certainty for those leasing aquatic lands, such as marinas. Having different lease terms for different types of lands creates additional work and uncertainty. The changes promote efficiency for both DNR and businesses and helps achieve both economic development and habitat improvements. Unplatted tidelands leases may only be renewed for 5 years, which is not sufficient time to make improvements. The University of Washington has been leasing land from DNR since 1904 and must renew its lease every 5 years. The changes will result in administrative efficiencies and promote long-term stewardship.

Persons Testifying: PRO: Representative Debra Lekanoff, Prime Sponsor; Morgan Hickel, University of Washington; Joanna Eide, DNR; Michal Rechner, DNR.

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