
SENATE BILL 5852

State of Washington

66th Legislature

2019 Regular Session

By Senators Randall and Takko; by request of Department of Natural Resources

1 AN ACT Relating to revising the lease terms for managing first-
2 class unplatted tidelands and shorelands; amending RCW 79.125.400,
3 79.130.020, and 79.125.030; and repealing RCW 79.125.020 and
4 79.125.410.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 79.125.400 and 2005 c 155 s 506 are each amended to
7 read as follows:

8 (1) (~~Upon platting and appraisal of first-class tidelands or~~
9 ~~shorelands as provided in this chapter~~) Except when the department
10 is re-leasing first-class tidelands or shorelands under subsection
11 (4) of this section, if the department deems it for the best public
12 interest to offer ((the)) first-class tidelands or shorelands for
13 lease, the department shall notify the owner of record of ((uplands))
14 the lands fronting upon the tidelands or shorelands to be offered for
15 lease ((if the upland owner is a resident of the state, or the upland
16 owner is a nonresident of the state, shall mail to the upland
17 owner's)) by mailing to the landowner's last known post office
18 address, as reflected in the county records, a copy of the notice
19 notifying the owner that the state is offering the tidelands or
20 shorelands for lease, giving a description of those lands ((and the
21 department's appraised fair market value of the tidelands or

1 ~~shorelands for lease)), and notifying the owner that the ((upland))~~
2 owner has a preference right to apply to lease the tidelands or
3 shorelands ~~((at the appraised value for the lease for))~~. The owner
4 has a period of sixty days from the date of service of mailing of the
5 notice to exercise the preference by applying to lease the tidelands
6 or shorelands.

7 (2) If at the expiration of sixty days from the service or
8 mailing of the notice, as provided in subsection (1) of this section,
9 there being no conflicting applications filed, and the owner of the
10 ~~((uplands))~~ lands fronting upon the tidelands or shorelands offered
11 for lease, has failed to avail themselves of their preference right
12 to apply to lease ~~((or to pay to the department the appraised value~~
13 ~~for lease of the tidelands or shorelands described in the notice))~~,
14 the tidelands or shorelands may be offered for lease to any person
15 and may be leased in the manner provided for in the case of lease of
16 state-owned aquatic lands.

17 (3) If at the expiration of sixty days two or more claimants
18 asserting a preference right to lease have filed applications to
19 lease any tract, conflicting with each other, the conflict between
20 the claimants shall be equitably resolved by the department as the
21 best interests of the state require ~~((in accord with the procedures~~
22 ~~prescribed by chapter 34.05 RCW))~~. However, any contract purchaser of
23 lands or rights therein, which ~~((upland))~~ land qualifies the owner
24 for a preference right under this section, shall have first priority
25 for the preference right.

26 (4) At the expiration of any lease of first-class tidelands or
27 shorelands, the lessee or the lessee's successors or assigns have the
28 preference right to re-lease all or part of the area covered by the
29 original lease or any portion of the lease, if the department deems
30 it to be in the best interests of the state to re-lease the area.
31 Such a re-lease must be upon the terms and conditions as may be
32 prescribed by the department. This preference right to re-lease is
33 superior to any preference right given to the landowner fronting the
34 tidelands and shorelands under subsection (1) of this section.

35 (5) In case the fronting uplands are not improved and occupied
36 for residential purposes and the fronting landowner has not filed an
37 application for the lease of the lands, the department may lease the
38 lands to any person for booming purposes. However, failure to use
39 lands leased under this section for booming purposes for a period of
40 one year shall result in a forfeiture of the lease and the land shall

1 revert to the state without any notice to the lessee upon the entry
2 of a declaration of forfeiture in the records of the department.

3 **Sec. 2.** RCW 79.130.020 and 2005 c 155 s 602 are each amended to
4 read as follows:

5 (1) The department shall, prior to the issuance of any lease
6 under the provisions of this chapter, fix the annual ~~((rental))~~ rent
7 and prescribe the terms and conditions of the lease. However, in
8 fixing the ~~((rental))~~ rent, the department shall not take into
9 account the value of any improvements placed upon the lands by the
10 lessee.

11 (2) No lease issued under the provisions of this chapter shall be
12 for a term longer than thirty years ~~((from the date thereof if in~~
13 ~~front of second-class tidelands or shorelands; or a term longer than~~
14 ~~ten years if in front of unplatted first-class tidelands or~~
15 ~~shorelands leased under the provisions of RCW 79.125.410, in which~~
16 ~~case the lease shall be subject to the same terms and conditions as~~
17 ~~provided for in the lease of the unplatted first-class tidelands or~~
18 ~~shorelands))~~. Failure to use those beds leased under the provisions
19 of this chapter for booming purposes, for a period of two years shall
20 work a forfeiture of the lease and the land shall revert to the state
21 without notice to the lessee upon the entry of a declaration of
22 forfeiture in the records of the department.

23 **Sec. 3.** RCW 79.125.030 and 2005 c 155 s 502 are each amended to
24 read as follows:

25 The department may survey and plat any ~~((second-class))~~ tidelands
26 and shorelands not previously platted.

27 NEW SECTION. **Sec. 4.** The following acts or parts of acts are
28 each repealed:

29 (1) RCW 79.125.020 (First-class tidelands and shorelands to be
30 platted) and 2005 c 155 s 501 & 1982 1st ex.s. c 21 s 87; and

31 (2) RCW 79.125.410 (First-class unplatted tidelands and
32 shorelands—Lease preference right to upland owners—Lease for booming
33 purposes) and 2005 c 155 s 527 & 1982 1st ex.s. c 21 s 113.

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