

HOUSE BILL REPORT

SHB 2165

As Passed House:

February 6, 2024

Title: An act relating to the authority of the department of natural resources to determine recreational use fees for activities on agency-managed public lands.

Brief Description: Concerning the authority of the department of natural resources to determine recreational use fees for activities on agency-managed public lands.

Sponsors: House Committee on Agriculture and Natural Resources (originally sponsored by Representatives Kloba, Waters and Reeves; by request of Department of Natural Resources).

Brief History:

Committee Activity:

Agriculture and Natural Resources: 1/12/24, 1/30/24 [DPS].

Floor Activity:

Passed House: 2/6/24, 97-0.

Brief Summary of Substitute Bill

- Provides that a permit, license, or any related application or processing fee issued by the Department of Natural Resources for an organized event or commercial use is not considered a fee for the purposes of the recreational immunity statute.

HOUSE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Chapman, Chair; Morgan, Vice Chair; Reeves, Vice Chair; Dent, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Kloba, Kretz, Lekanoff, Orcutt, Schmick and Springer.

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

Staff: Rebecca Lewis (786-7339).

Background:

Generally, any public or private landowners, hydroelectric project owners, or others in lawful possession and control of any lands, including water areas, who allow members of the public to use such areas for the purposes of outdoor recreation without charging a fee, with certain exceptions identified in statute, are not liable for unintentional injuries to users of such areas. The law establishing this exemption from liability is sometimes referred to as the recreational immunity statute.

The following are not considered fees for the purposes of the recreational immunity statute:

- passes and permits issued by either the Department of Fish and Wildlife (DFW) or the Parks and Recreation Commission, including Discover Passes;
- a daily charge of \$20 or less per person per day for access to a publicly owned off-road vehicle (ORV) park or certain other public facilities for the purpose of ORV use; and
- payments to landowners for public access from state, local, or nonprofit organizations established under DFW cooperative access agreements if the landowner does not charge a fee to access the land subject to the cooperative agreement.

The term "recreation" includes the following forms of recreation, among others:

- the cutting, gathering, and removing of firewood by private persons for their personal use without purchasing the firewood from the landowner;
- hunting, fishing, camping, swimming, and hiking;
- bicycling, skateboarding, or other nonmotorized wheel-based activities;
- certain aviation activities;
- the riding of horses or other animals;
- pleasure driving of off-road vehicles, snowmobiles, and other vehicles; and
- viewing or enjoying historical, archaeological, scenic, or scientific sites without charging a fee of any kind.

Summary of Substitute Bill:

A permit or license, or any related application or processing fee, issued by the Department of Natural Resources for an organized event or commercial use is not considered a fee for the purposes of the recreational immunity statute.

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) This bill gives the Department of Natural Resources (DNR) the authority to charge fees for use of the property without losing their recreational immunity, in the same way that current law applies to other public agencies like the Department of Fish and Wildlife. The DNR receives more than 100 requests to hold special events on DNR lands but does not have a fee structure to issue permits. If the DNR charges a fee for these events on DNR lands, the DNR will lose the exemption under the recreational immunity statute. This bill will create consistency, improve transparency, and may bring some revenue to the DNR to help defray the costs that the DNR absorbs when events occur on their lands. Any fee structure would go through the rulemaking process, that includes public review, and be approved by the Board of Natural Resources. Some of the DNR lands are in frontcountry rather than backcountry. The Forest Service is able to charge similar fees, so it makes sense that the DNR should also have that ability.

(Opposed) None.

Persons Testifying: Philip Wolff; Nathaniel Rees, The Mountaineers; Nicky Pasi, Mountains to Sound Greenway Trust; Brian Considine and Andrea Martin, Department of Natural Resources; Scott Richards, The Nature Conservancy; and David Dunphy.

Persons Signed In To Testify But Not Testifying: None.