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SENATE BILL 5460

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State of Washington                      60th Legislature                      2007 Regular Session

By Senators Swecker, Fraser, Jacobsen, Morton and Hargrove; by request of Department of Natural Resources

Read first time 01/19/2007.                      Referred to Committee on Natural Resources, Ocean & Recreation.

1            AN ACT Relating to clarifying the authority of the department of  
2 natural resources with respect to certain aquatic lands; and amending  
3 RCW 79.105.210 and 79.120.040.

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

5            **Sec. 1.** RCW 79.105.210 and 2005 c 155 s 143 are each amended to  
6 read as follows:

7            (1) The management of state-owned aquatic lands shall preserve and  
8 enhance water-dependent uses. Water-dependent uses shall be favored  
9 over other uses in state-owned aquatic land planning and in resolving  
10 conflicts between competing lease applications. In cases of conflict  
11 between water-dependent uses, priority shall be given to uses which  
12 enhance renewable resources, water-borne commerce, and the navigational  
13 and biological capacity of the waters, and to statewide interests as  
14 distinguished from local interests.

15            (2) Nonwater-dependent use of state-owned aquatic lands is a low-  
16 priority use providing minimal public benefits and shall not be  
17 permitted to expand or be established in new areas except in  
18 exceptional circumstances where it is compatible with water-dependent  
19 uses occurring in or planned for the area.

1 (3) The department shall consider the natural values of state-owned  
2 aquatic lands as wildlife habitat, natural area preserve,  
3 representative ecosystem, or spawning area prior to issuing any initial  
4 lease or authorizing any change in use. The department may withhold  
5 from leasing lands which it finds to have significant natural values,  
6 or may provide within any lease for the protection of such values.

7 (4) The power to lease state-owned aquatic lands is vested in the  
8 department, which has the authority to make leases upon terms,  
9 conditions, and length of time in conformance with the state  
10 Constitution and chapters 79.105 through 79.140 RCW. The authority to  
11 lease as provided in chapters 79.105 through 79.140 RCW includes the  
12 authority to issue other lesser contractual arrangements including but  
13 not limited to easements, licenses, permits, and rights-of-entry,  
14 unless the context clearly dictates otherwise.

15 (5) State-owned aquatic lands shall not be leased to persons or  
16 organizations which discriminate on the basis of race, color, creed,  
17 religion, sex, age, or physical or mental handicap.

18 **Sec. 2.** RCW 79.120.040 and 2005 c 155 s 404 are each amended to  
19 read as follows:

20 If the United States government (~~(has established pierhead lines~~  
21 ~~within a waterway created under the laws of this state at any distance~~  
22 ~~from the boundaries established by the state, structures may be~~  
23 ~~constructed in that strip of waterway between the waterway boundary and~~  
24 ~~the nearest pierhead line only with the consent of the department and~~  
25 ~~upon such plans, terms, and conditions and for such term as determined~~  
26 ~~by the department. However, no permit)), under its regulatory  
27 authority over navigable waters, has authorized structures within  
28 waterways, or has determined that no federal authorization is necessary  
29 for the structures, those structures may be constructed only with the  
30 consent of the department and upon those plans, terms, and conditions  
31 and for such a term as determined by the department. However, no  
32 permit shall extend for a period longer than thirty years.~~

33 The department may cancel any permit upon sixty days' notice for a  
34 substantial breach by the permittee of any of the permit conditions, or  
35 if the waterway is required for public highway purposes.

36 If a waterway is within the territorial limits of a port district,

1 the duties assigned by this section to the department may be exercised  
2 by the port commission of the port district as provided in RCW  
3 79.105.420.

4 Nothing in this section shall confer upon, create, or recognize in  
5 any abutting owner any right or privilege in or to any strip of  
6 waterway abutting any street and between prolongations of the lines of  
7 the street, but the control of and the right to use the strip is  
8 reserved to the state of Washington, except as authorized by RCW  
9 79.105.420.

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